

# AN INQUIRY

Into the Remarkable Instances of *History*,  
and *Parliament Records*, used by the Au-  
thor of *the Unreasonableness of a new Se-  
paration on Account of the Oaths*; whe-  
ther they are faithfully cited and applied.

By *Dr. Brady.*

Page 12.

**T**HE Author of this Discourse makes Enquiry into two things, to clear what he hath before delivered.

1<sup>st</sup>. *How far the Discharge or Release from a Person, who hath Right, and is concerned, is necessary to those who take the Oaths of Allegiance to another Person in Possession of the Crown.*

2<sup>dly</sup>. *How far our Saviour's Rule holds in this Case.*

The Theological part of this Discourse I wholly pretermitt, and leave it to Divines; the Historical is only that I shall enquire into.

And before I enter upon this Enquiry I shall Note.

First, That the Saxons were a miscellaneous People, joyned with the Franks in Piracy and Rapine; who made Descents wherever they could upon the Coasts of *Gallia, Flanders, and Britain*, as *Ammianus Marcellinus*, lib. 27. c. 7. and l. 28. c. 7. *Bede* in his History fol 58. col. 2. adds the *Jutes and Angles* to those, who came or were invited into *England*. *Mr. Selden* adds to these the *Danes* and

*Frisons*, in his *Chronology* at the end of *Janu*, and most certainly under the names of *Saxons* were comprehended several other People; such as joyned with them in Rapine and Piracy, or such as they had subdued, which by the Conquering *Romans*, or Neighbour Nations, had been forced for their own safety into Islands, Bogs and Morasses, upon and near the Coasts of the *German Sea*, from the *River Eydor* in *Juteland* to the *Elbe*, and from thence to the *Rhine* and *Scheld*; and it may not want probability, that the *Heptarchy* was here erected by the Leaders of seven different sorts of People, Robbers and Pillagers under the names of *Saxons*. Such as they were when they came, they remain'd, especially during the *Heptarchy*, always Invading, Plundering, and Burning one anothers Countries, frequently killing and murdering their Kings, Earls, or Chief Governours, or those one another. So, as I think, very Judicious Men would not look for Authentick and Well-grounded Precedents in the History of these times; where things were always in a Flux, without

A permanent

permanent settlement, or amongst the barbarous Usages of these rude, illiterate People; unless in such Cases as may have a great appearance of Truth, and are reported or confirmed by the unanimous consent of their Historians.

The order of Succession was certain in the West Saxon Kingdom, after Egbert brought the greatest part of the Heptarchy under his Power and Government. Yet from the various Expressions of the ancient Writers of the Saxon Story concerning the Succession, an unwary Reader would think that the Saxons agreed not in one Rule of Succession, or that they had no Rule at all; but whoever considers with understanding, what those Historians say, will find they pursued a sure Rule of Succession (as much, and as often as those times would permit) which was either Right and Proximity of Blood; or the Nomination and Appointment of a Successor by the Precedent King; which Nomination by the Saxon Kings, before the *Danes* came in, mostly happened in the Minority or Nonage of their Children, and that only in the turbulent State of the Nation, in *turbulento Republica tempore*, which was thought and allowed a sufficient Cause, for the Father to prefer his Brothers Son before his own, or a Bastard before his lawful Heir, *ut pater fratris filium proprio, vel etiam Nothum anteferebat Germano*. And by the following Instances it will plainly appear, That the Saxons did in their owning of Subjection and Submission to their Princes, acknowledge both Proximity of Blood, and Nomination by their Kings often both together, sometimes only one of them, but never followed any other Rule, nor did the People in the Saxon Monarchy set up any King themselves in any formal, or pretended Assembly of the Nation. Of both Titles in the same person, there are these three Examples before the *Danes* Conquest.

Egbert the first Saxon Monarch had two Sons, Ethelwulf and Ethelstan; the Eldest succeeded him in the Kingdom of the West Saxons; and he gave to his o-

ther Son Ethelstan what he had subdued, or his Conquests; who died obscurely, it not being known what end he came to. *Malsb. de Ethelwulphus West-Saxonum regno contentus, Gest. Reg. cetera quae pater subiugaverat, Appendicis, Ang. f. 20. Ethelstano filio contradidit, Qui quanto et a. n. 30.*

quo sine defecerit incertum The Saxon Chronology Ann. Dom. 836. hath it thus. Ethelwulphus Occidentalium Saxonum regnum cepit, (Feng to *Weg-berana Ríce*, the Common expression for Succession in that Language) filio autem suo Ethelstano, Cantuariarum, Saxonum Orientalium, Subregimentum, et Sub Saxonum regnum donavit. Florence of Worcester in the same year thus. Cujus post mortem (meaning Egbert) Ethelwulphus filius suus in West-Saxonia regnare cepit, suumque filium Ethelstanum Cantuariis, East-Saxonibus, Sub-Regiis, et Sub-Saxonibus regem perfecit. Egbert made his Son Ethelstan King of Essex, Kent, Surry, and Suffex. After whose death the whole Kingdom came into the hands of Ethelwulph.

\* Ethelwulph notwithstanding his Son by Proximity of Blood were his Heirs, and also Heirs to one another; yet gave his Kingdom of the West Saxons to Ethelbald his Eldest Son, Ethelred his third, Elfred his fourth Son successively, and gave to his second Son Ethelbert, Essex, Kent, Surry, Suffex. Ethelbald lived but five years, and Ethelbert succeeded him in the whole Kingdom as next Brother, *Ut justum erat*, says Asser. f. 4. n. 40. Flor. Worcester. and Simon of Durham Anno. 860. † Ethelbaldus autem Quinquaginta regnabat (Feng Ethelbryht, to Caellum Eham Ríce his Brother) Ethelbertum autem suum fratris sui regnum cepit. \* After whom his two younger Brothers Ethelred, and Elfred were possessed of the Kingdom successively. This Historian calls this Testament or Will *Epistola benedictoria*.

† So King Edward possessed the Kingdom after his Father King Edgar, both by Proximity of Blood, as his Eldest Son; and by his Fathers Donation, and Command, *et Edwardum, ut pater ejus praeceperat, eligimus*, &c. Flor. Wig. Anno. 975. From

\* Testam. Elfred. in Asser. Meneven. f. 22. n. 20. Math. f. 22. a. n. 20. b. n. 30. chron. Saxon. Anno 854.

† Cdon. Saxon. Anno 860.

\* Flor. Wigorn. Anno. 866, 871.

† Id. Anno. 975.

Vit. Elfred. fol. 9. lect. 10. lin. 4. &c.

From *Egbert* the first *Saxon* Monarch, to *Ethelred* the last *Saxon* King, by Proximity and right of Blood, for the space of 110 years, we do not often find the words *Elected*, or *Election*; and where they do occur, they are bound and limited by Proximity of Blood, or Nomination of the Successor by the Predecessor: and as they are used, they signify only Recognition of, or Submission to him, that was said to be *Elected*.

Secondly, The *Danes* (a promiscuous People as the *Saxons* were, *Danes*, *Norwegians*, *Gabrs*, *Sweves*, *Frisons*, &c. and under the name of *Danes*†) ever since the beginning of King *Egbert*, having by continued Invasions, and Piracies, harassed, and grievously wasted and molested *England*, in the Reign of King *Alfred*, by pact and bargain between him and *Guthrum*, enjoy'd East *Saxony*, or *Essex*, and the County of the East *Angles*; and, as \* some say, a far greater part of the Nation. In King *Alfred's* Reign, *Swane*, King of *Denmark*, with a great Army invaded, and made himself Master of the whole Nation; forcing *Ethelred* and his Wife *Emme*, Sister to *Richard* the Second Duke of *Normandy*, with their two Sons *Edward* and *Alfred* into that Country.

The *Danish* Kings stayed not long here after *Swane* had conquer'd the Kingdom; they all four reigned not much above 25 years, their only Title was the Sword; notwithstanding they either brought hither the custom of the Predecessors naming, or giving the Kingdom to his Successor, as probably it might have been some times practis'd in their own Kingdoms; or used it as they found it here practis'd in cases of Necessity, and in their Childrens Minority by the *Saxon* Kings.

† *Swane* made his Son *Canute* his Successor. He married *Emme* the Widow of *Ethelred*, by whom he had his Son *Harde Canute*. To him his half Brother *Canute* gave all that had been any ways under his Government; but he being then in *Denmark*, \* *Norold* possessed himself of

the Kingdom; who was a Bastard Son of a Maid Servant brought into his Concupines Chamber, and imposed upon him by her; and for this reason *Elnoth* Archbishop of *Canterbury* refused to Consecrate him King, and to deliver him the Crown and Scepter.

After the death of *Harold*, *Harde Canute* called his half Brother *Edward* by his Mother *Emme* (afterward called the Confessor) out of *Normandy*, and caused him to live with him; and dying within less than two years after, left him Heir of his whole Kingdom, *Totius regni relictus heredem*.

And he, not long before he died, made *William* the Conqueror his Successor.

*Anno eodem* (viz. 1066) Rex *Edwardus* senio gravatus cernens *Williamum* *Anglorum* imperatorem *Edwardum* Regis filium idoneum, tam corde, quam corpore, Godwinus, Comes multum malumque, sedem, *Quidam* super terram crescere ad Conventum *Joannem* *Wilhelmum* *Comitem* *Normanniae* *armis* *apparet*, *Et* *cani* *sibi* *succedere* *in* *regnum* *Angliae* *voce* *flusti* *monuit*. In the same year King *Edward* growing infirm with Age, perceiving *Edgar* *Attheling*, the Son of Prince *Edward*, lately Deceased, neither in Mind nor Body fit for the Government, nor to bear up against the growing Power and Malice of *Gadwin's* Sons, thought upon his Cousin *William* Earl of *Normandy*, and by a firm Declaration Decreed he should be his Successor in the Kingdom. *Scilicet* that Reports this, was at the very time Secretary to this *William* Earl of *Normandy*, and after he had given him a great Character for his Courage, Conduct, and constant Success in War, his Justice, Religion, and Devotion; subjoyns, that King *Edward* sent *Robert* Archbishop of *Canterbury*, as Envoy to him, to let him know he was designed his Successor in his Kingdom. Which probably he would never have done, if this and the like Donations had been question'd in those days. Nay † Mr. *Selden* says, *This Donation was a lawful Title*.

Fol. 174.  
A. B.

Gul. Gemeticens. l. 6.  
c. 9.

Note the Reason.

Fol. 311.  
b. n. 30.

† Review of Tythe, p. 482.

† *Alfred*  
vir. f. 10.  
c. 14.

\* *Fadus*  
*Alfr.* &  
*Guthr.* c. 1.  
*Lamb.*  
fol 36.

† *Encomium*  
*Emme*  
pr. by du  
*Chefn*  
amongst  
the old  
*French*  
*Histor.* fol.  
164. B.  
\* *Ibid.* C.

\* *Fragm. de vitâ Gul. long. f. 32. n. 20. 30.*  
 \* *Orde. Vit. f. 39. C. D.*  
 † *Col. 505. n. 40. 50.*

William Rufus had the same Right and Title of Succession by the Donation of his Father, and as his Testamentary Heir.

Ralph de Diceto, Dean of St. Pauls, (who lived in or very near the time) says, † That Hugh Bigod, Steward of the King, made speed out of Normandy, (where King Henry died) into England, and made Oath before the Archbishop of Canterbury, That upon his Death bed, upon some Differences that hapned between him and his Daughter the Empress did disinherit her, and made Stephen Earl of Boloign his Heir. Whereupon William Archbishop of Canterbury giving too much credit to the Words of the Steward, consecrated Stephen Earl of Mortaign King at Westminster. If this should be true, he succeeded as Testamentary Heir to King Henry.

King John was Testamentary Heir to his Brother Richard; who upon his Death-bed, when he despaired of Life, devised to his Brother John the Kingdom of England, and all other his Lands, and made all present swear Fealty to him, and commanded that his Castles, and Three parts of his Treasure should be delivered to him. \* Roger Hoveden, who was a Domestick in the Family of King Henry II. and wrote at this very time, delivers this.

King John, before he left the World, made Henry his First-begotten Son his Heir. Paris, who \* writes this, was Historian to this Henry.

After what hath been premised, the Author's History comes to be considered upon his first Query, which he maintains upon Instances in the Saxon, Norman, and subsequent times.

### The Author's Words, P. 13.

\* As to the former, I say, the resolution of Conscience in this case doth not depend upon the Will and Pleasure of the Person to whom the former Oath was made, but upon the ground on which it was made, and from which it had its force to oblige;

and if those cease, the obligation of the Oath ceases together with them: And whether they do or not, no particular Person is so fit to judge, as the Three Estates of the Realm, as I shall now prove from several remarkable Instances to this purpose in our Histories and Parliament Records; whereby I shall make it appear, that when a Dispute hath hapned about the Right of Succession, and to whom the Oaths of Allegiance were to be made, they have looked on it as their proper Right to limit the Succession, and determine the Oaths.

### The Author's Words, and Application continued *ibid.* p. 13.

Under the British Government, we find a considerable Instance to our purpose, Vortigern, the British King had entered into a Secret League to bring over the Saxons: upon which the Great Men of the Nation deserted him, and chose Vortimer in his room (he was his eldest Son.) Here it is plain, they thought the introducing a Foreign Power, a sufficient discharge of their Obligation to him, it being so directly contrary to the publick Good of the Nation, although Vortigern gave them no Discharge.

In the Desertion of Vortigern and advancing his Son Vortimer, he cites *Mat. West. Anno Domini 454.* But in the whole Story there is not one Syllable of a Secret League in *Mat. West.* in that, or in any other following Year. What he cites in the Margin is in *Mat. West.*

### HISTORY.

To prevent the Easiness, Supinuity, Luxury and Effeminacy of all People; the Ignorance, Avarice, Debauchery, and Simony of the Clergy; and an universal lapse of the Nobility and People into notorious Extravagancies and Impieties; and to repel the Violences, and hinder the Incurious and Invasions of the Picts and Scots; Vortigern held a Counsel of his Great



Great Men and Nobles, being excited thereto by the Noise and Clamours of the People; wherein, by *General consent*, it was agreed to call the Saxons out of Germany to their aid. Who no sooner received the Invitations from the Britains by special Messengers, but easily granted, what they themselves had a Thousand \* times wished for. *Vortigern* excited by the noyfulness of his People about the Publick State, asked the Advice of his Great Men; and it pleased them all to call the English, and Saxons out of Germany, Mighty in Arms, Vagabonds, without Habitations, with prospect of a double Profit, that they might easily conquer their Enemies; and that hitherto, being void of Habitations, they might esteem it a vast benefit to inhabit a nasty Soil, or Poor Country: But they were not to attempt any thing against the Britains, because the memory of the Advantage they received by coming thither, would soften, and reduce their natural Ferity or Barbarity. The Advice was allowed, and there were sent into Germany Envoys, very considerable Men, and such as worthily represented the Nation. The Germans hearing what they had a Thousand times wished for †, &c. they enter'd at first with great Joy † and Favour of the People: but finding they cheated them, and came for their Estates, when it was too late they would have \* expelled them. They leagued with the Scots, whom they were sent for to expel, pretending they were not sufficiently rewarded, and provided for, &c. and with their Assistance wasted, burnt, and spoiled all Cities and Countries from the East to the West Sea †.

\* *Gildas*.  
pag. 46,  
47, 48, 49.

\* *Malms.*  
fol. 3. b.  
n. 10. 20.  
† *Ibid* n.  
40. 50.  
\* *Ibid* l. 4.  
a. n. 20.

† *Gildas*.  
24. p. 35,  
36.

\* Fol. 48.  
b.

Part of the Story cited by this Author, tho he mentions only *Mat West.* is from *Geoffrey of Monmouth*, the most Fabulous Historian (if he be worthy to be called so) extant amongst the English; and therefore, it may be supposed, this Tale is brought in by a side Wind, and father'd upon *Mat. West.*

*Lues acerrima, & acerba, multo hostium horum, l. 2. Anglorum est sequitur. Quod Britannia unum confilium cum Rege suo Vortigero, quasi Defensores Patria, ad se invitandas eligunt, sed statim Impugnatores & Expugnatores fenerunt.* A more sharp, than the sharpest of Plagues followed, which was of the new Enemies, the English, whom the Britains, by Unanimous Counsel and Advice with their King *Vortigern*, had chosen to be invited to them, as Defenders of the Country, but they presently proved Assauiers of it, and Conquerors. The *Saxon Chronology* speaks to the same purpose. \* And the late Dean of St. Paul's agrees with, and approves of these Relations of the Britains joining with their King *Vortigern*, in calling in the Saxons, in his learned Book of the Antiquities of the British Churches.

The Author's Words, *ibid.* p. 13.

"In the Saxon times Siebert King of the West Saxons (in the time of the Heptarchy) was complain'd of for misgovernment, and for changing their Laws for his own ends: but when he persisted in his way, there was a Convention of the Nobility and People (convenant Nobiles regni cum populo univervo, *sic* *Mat. West.*) and they declared themselves free from Allegiance to him, and chose *Kincolbus* in his room." The following words here omitted in both Authors are, *Kincolfus, Juvenis egregius de Regis stirpe originis, electus est in Regem.*

## HISTORICAL

Both *Men. of Hunt.* and from him *Mat. West.* have this Story. But is otherwise reported, and by *Florence of Worcester* †. *Kincolfus de Prolapio Regis Cerdici originis, auxilium sibi ferentibus West-Saxonibus Primatum, Regem illorum Siebertum ab multitudinis suorum satellitum iniquorum regno exterminavit, Et loco ejus regnavit. Kincolbus of the Stock of Cerdic, (who was the first Saxon King)*

*Flo. Wigorn. l. 54. Ann. Dom. 446.*

\* *Anna.*  
446, 447

pag. 304-317, 318

\* Cum autem tem modum omnibus male tractaretur, legesque receperunt, fueruntque proprii modum suum vel d. praverunt, vel mutaverunt. *Mat. West. A. 735. Hunt. l. 1. p. 196.*

† Fol. 37. An. Dom. 755.

by

by the assistance of the West Saxon Noblemen, for the multitude of his wicked Actions (that was Kineulf's pretence, and without doubt a Common Good tacked to it) expell'd Sigebert the Kingdom (except out of Hampshire) and he reigned in his stead. Almost the same relation is in the *Saxon Annals*. Kineulfus, West-Saxonum primatibus adiutus Sigeberti regnum pro malefactis suis totum quidem, excepta Hamtonensium provincia, occupavit. Kineulf, by the help of the West Saxon Nobility, usurped or possess himself of Sigebert's whole Kingdom for his misdeeds, except Hampshire\*. Whence Kineulf is also derived from *Cerdic*, the Founder of the West Saxon Kingdom. This was in the time of the *Hepthurgs*, when the petty Kings, Earls, and Pretenders to his Government, took all Opportunities and Pretences to destroy and overturn one another. And it was the Action and Contrivance of Kineulf, assisted by the rebellious and mutinous Subjects of Sigebert, that thrust him out of his Kingdom. *Malsbury* hath it thus, *Arripuit regnum Sigeberti, ut apud suos seculis immans, idemque suis ignavia perinsumis; quicquid omnium odio conspiciant, post annum solio deturbatus, meliori locum fecit.* † Suscepit regni gubernacula Kineulfus, clarus & ille quidem morum compositione, militumque gestis. Sigebert invaded, or seized the Throne, a man very cruel at home, and abroad very infamous for Sloth and Cowardise: wherefore he was hated of all Men, and after one Year being dethroned, made way for a better. Kineulf, famous for his good Temper and Military Actions, undertook the Government. In these three most Authentick and Ancient Histories there is nothing of a Convention of the Nobles and People, or an Election of Kineulf, but they affirm, that both he and Sigebert, whom he dethroned, invaded the Government by Force or Fraud, and entered upon it by indirect means; and by such it was to be kept; and for that reason the People hated Sigebert.

### The Author's Words, p. 14.

*In the Kingdom of Mercia, Beornredus for not governing by the Laws, was by a Convention of the Nobility and People set aside from the Government, and Offa chosen King, who was of the Royal Stem, but not the next Heir: and so William of Malmsh. observes, in the West Saxon Kingdom after Ina, That no Lineal Succession was then observed, but still some of the Royal Line sat in the Throne; and of Ina himself, that he was rather put into the Throne for his Virtue, than by his Right of A. D. 758. Succession. This Paragraph he makes good by the three parcels of History there noted\*.*

*um Beornredum insurgens, pro eo quod populum non equis legibus, sed per tyrannidem gubernaret, convenerant in unum omnes, tam Nobiles, quam ignobiles, & Offa Duce ipsum a regno expulerunt. Mar. West.*

*Nam & ipse Britanni & ceteri infra Inam reges, licet Natalium splendore Christianos (quippe qui de Cerdicio originem traherent) non parum tamen a linea regia Stirpis exorbitaverant Will. Malsb. degest. Reg. Ang. l. 1. c. 2.*

*Regnum per Inam novatum qui Cinesiffi ex fratre Cuthbaldo princeps maxis pro itinere virtutis industria, quam successiva subolis profapia in principatum ascit. id. ib.*

What he says of Beornredus and Offa is to be found in *Mar. West.* but nothing to that purpose in the *Saxon Chronology*. All that is there to be found of them as to this particular is in *Anno Domini 755.* toward the latter end of the Year. *Eodem anno Ethelbaldus Rex Merciorum Secandane occisus est; Beornredus autem regnum cepit, & aliquantisper tenuit. Eodemque anno Rex Offa regnum suscepit, annosque triginta & novem tenuit.* In the Year 755. Ethelbald King of the Mercians was killed at Secandane, and Beornredus possessed the Kingdom, and held it a small time. And the same Year King Offa took the Kingdom, and held it 39. Years. Nor in *Florence of Worcester*, he only says, *Rex Merciorum Ethel-*

\* Saxon.  
Chron. A.  
D. 755.

l. 1. fol. 7.  
a. 20. 50.

thelbaldus in Segeswald occiditur; cuius regnum Beornredus tyrannus invasit. Et per modicum tempus in parva letitia tenuit regnum cum uis perdidit; qui mortis successu in regnum Nepos patruelis Thelbaldi Regis Merciorum Offa. † Erthelbald King of the Mercians was killed in Segeswald (i. e. Seaxland) whose Kingdom Beornred the Tyrant invaded, and holding it a little while with small joy, lost both the Kingdom and his own Life; and Offa the Brothers Son of Thelbald King of the Mercians succeeded him.

*Malmsbury*, speaking of Thelbald, says, Hic altā pace, Et multo tempore, id est Quadragesima uero Annis rerum perfectissima, Et nouissime a Subiectis occisus, fortuna rotam voluit, unde ejus necis Beornredus nil memorabile dedit, nisi, quod mox ab Offa necatus, dignum suum Insidiarum tulit.

\* fol. 14.  
b. n. 37.

\* Thelbald managed his Affairs in a full Peace One and forty Years, but at last the Wheel of Fortune turned, and he was killed by his Subjects; the Author of his Death, Beornred, left nothing memorable behind him, unless his being killed by Offa, and thereby receiving a worthy Reward of his Treachery.

In these Histories here is nothing of a Convention, that either set aside Beornred, and chose Offa for their King; but only that Beornred was a Tyrant and Traytor, who with his Accomplices murder'd his peaceful Sovereign Thelbald, who in great quiet had govern'd his Kingdom one and forty years, which he invaded and set up himself, and that Offa revenged his Uncle Thelbald's Murder, killed Beornred, and succeeded in the Government; and doubtless by the means of the power and force with which he subdued Beornred.

The other two parcels of History are not fairly cited, or duly placed and laid together; for the Author hath placed that last, which is first mentioned in the Historian; and by these he would prove, That in the West-Saxon Kingdom after Ina no lineal Succession was then obser-

ved; and of Ina himself, that he was rather put into the Throne for his Virtue, than by right of Succession.

## HISTORY.

The words of the Historian are \* *Malmsbury*. Romanū sunt Regnum per Inā novatum, degeſt. Reg. (and so on, as cited by the Author) he going to Rome (that is, King Ceadwalla, concerning whom the preceding Discourse had been) Ina seized upon the Kingdom, or changed the Succession, who was the Grandchild of Cuthbold, Brother of Kingils, and was called to the government more for his real Virtue, than by successive Birthright.

The Saxon Chronology † thus expecteth his coming to the Government; *Ine* Fing. to West-Saxons Rics, &c. Ina West-Saxonum regnum caſcepit, Eodem anno Ceadwalla Romanū Proſectus eſt, Baptiſmumque à Papa ſuſcepit, Quem Papa Petrus cūminatus, inque civitate Septimanenſem annū poſtea deſectus eſt. Ina took upon him the Government of the West-Saxon Kingdom, &c. *Flor.* of Worcester thus: Addante Ceadwalla Romanū, ſuſcepit Imperium Ina de ſtirpe Regis; cuius pater Monedus, cuius pater Ceadmullus, cuius pater Cutha, cuius pater Cathbicus, cuius pater Ethandus. Ceadwall going to Rome, Ina undertook, or put himself upon the Government, whose Father was Moned, whose Father was Cuthbold, whose Father was Cutha, (or according to *Malmsbury* Cuthbold) whose Father was Cathbicus, whose Father was Ethandus. In these Histories there is nothing how he attended the Throne, whether he was called to it, or otherwise placed himself upon it; or received it, as recommended to it by his Predecessour Ceadmull, as he himself when he went to Rome recommended his Successour Erthelbald. *Reliſto Imperio ac* \* *Erthelbaldus de proſapia* \* *Flor. Wig.* *Cerdici Regis urianus commendato Rege Ina* A. D. 728. *ad linina beatorum Apoſtolorum proſectus eſt.* f. 372. Ina left his Government, and having recommended Erthelbald, went to Rome. The Saxon Chronology only says,

† Ina

† A.D. 728. † *Ina Romam abiit, & ibique Spiritum efflavit; & Æthelbaldus West-Saxonum regnum cepisset. tenuitque annos quatuordecim.*

\* f. 7. b. \* *Malm'sbury's words are; Successit Principi Ædelardus Ina consanguineus, per quatuordecim annos quietissimè regnum reventum Cutbredo cognato reliquit. Æthelbald the Kinsman of Ina succeeded in the Government, enjoyed it quietly fourteen years, and left it to his Kinsman Cutbred, who held it about the like time.*

\* A.D. 741. In the *Saxon* † *Chronology and Flor. of Worcester*, 'tis, *Cutbred* took upon him the Government, or succeeded in the Kingdom.

The next Rulers after *Cutbred*, were *Sigebert* and *Kineulf*, of whom before.

*Brithric* succeeded *Kineulf*, but how, and when, none of these three Historians tell us. In his Story we meet with the Author's last parcel of History, but very partially cited. They all report, that he married the Daughter of *Offa* King of *Mercia*, at that time most potent, † *cujus affinitate fultus, Egbertum solum Regalis Præstigia Superstitum, quem validissimum sui Utilitatibus metuebat, Obicem Franciam fugandam curavit: nam & ipse Brithricus, & ceteri infra Inam Reges, licet Natalium splendore gloriantur. ( quippe qui de Cerdicio originem traherent ) non parum tamen aliena regia stirpis exorbitaverant: illi igitur expulso securo resolvui cuperat otio, &c.* Supported by the Affinity of *Offa*, he caused *Egbert*, the only Survivor of the Royal Race, to fly into *France*, fearing he would be a great check to his Affairs: for *Brithric* himself, and the other Kings since *Ina*, altho they might glory in the splendour of their Births ( as deriving their Origin from *Cerdic* ) yet they were not a little out of the way from the line of the Royal Progeny: When *Egbert* was expelled the Kingdom, he began to live securely, &c.

From this Observation of *Malm'sbury's*, as the Author calls it ( if it be one ) the lineal Succession before *Ina* ( which might be here set forth, if needful ) is as much proved as no lineal Succession

after him; and notwithstanding the several Usurpations that had been between the Reign of *Ceadwalla*, or *Ina*, and *Egbert*, who was much feared by *Brithric*, as being the only Survivor, and of right Successor of the Royal Line, and therefore banished into *France*; the lineal Succession in the *West-Saxon* Kingdom, was in time revived and continued in the *Saxon* Monarchy which he founded, as will appear in the further Enquiry into ( the Author's ) other *Saxon* Instances. This if it had been fairly cited, could not have been useful to him; but he took what served his turn, and left out the rest.

### The Words of the Author, p. 14.

*Æthelphus, King of the West-Saxons, went to Rome, and there crowned Alfred his youngest Son King; and married the King of France's Daughter, in his return, and made her Queen against the Laws; for which reason he was excluded his Kingdom, his eldest Son and Alston Bishop of Shireburn, being at the top of this Act of Exclusion; and he came back only upon the terms of receiving his Son into a Share of the Kingdom; which shews that they looked on the Laws as the measure of Allegiance: and where those were openly broken, that it was in their power to transfer it.*

*Matt. West.*  
A.D. 854.  
867.

### HISTORY.

*Rex Occidentaliſum Saxonum Æthelphus cum honore maximo Romanus profectus, &c.* *Æthelphus* King of the *West-Saxons* went with great honour to *Rome*, carrying with him his younger Son *Alfred*, whom he loved beyond all his other Sons, that he might be instructed by *Pope Leo* in Matters and Religion, where he stay'd a year with his Son, and caused him to be crowned King by the *Pope*; and after few days returning to his Country, he brought with him *Judith*, Daughter to *Charles* King of *France*, whom he had married. But in the mean time, while the King was beyond Sea, there was a Conspiracy of certain great Men formed

† *Malmf. l.*  
1. c. 2. f.  
2. a. n. 10.



formed against him; the chief of the Conspiracy were *Æthelbald* his eldest Son, and *Alstan* Bishop of *Shireburn*, and *Landulph* Earl of *Summersetshire*; who had resolved, that upon his return he should never be received to the Government; for which they had two causes; One, for that he had caused his younger Son *Alfred* to be crowned at *Rome*, and post-pon'd and excluded his other Sons; the second was, That he had despised all *English* Women, and married a Stranger. Moreover, the Conspirators had heard, that contrary to the Custom and Statutes of the *West-Saxon* Kings, he called the King of *France's* Daughter, whom he had lately married, Queen; and caused her to sit by him at the Table, and eat with him; which the *West-Saxon* Nation did not permit, nor that she should be called Queen, but the King's Wife. *Hæc autem infamia ab Eadburga Offa Regis filia, ejusdem generis regibus, exorta est: Quia Virum suum Britonum veneno perdidit, &c.* The occasion of which non-permission arose from *Eadburg* the Daughter of *Offa*, a Queen of the same Yort, who destroyed her Husband with Poyson, and sitting by the King, was wont to accuse all the Noblemen of the Kingdom; and those she could not accuse, she killed by Poyson. Therefore for the lewdness of the Queen, all conspired that they would never permit a King to reign over them, *Qui in prædictis culpabilis inveniretur*, who should be found culpable in what hath been said. *Revertente tandem a Roma Æthelwulf Rege Pacifico, prædictus filius ejus Æthelbaldus, conceptionem nequitiam ad effectum producere attentavit; sed Deus omnipotens id fieri non permisit, &c.* When the peaceable King *Æthelwulf* return'd from *Rome*, his Son *Æthelbald* attempted to effect his wicked Contrivance; but God would not permit it: for to prevent a more than Civil War between Father and Son, by the ineffable Clemency of the King, the Confederacy of all the Nobles and Bishops was broken, he dividing the Kingdom of the *West-Saxons* between

himself and Son, which before was undivided, so as his Son possessed the East part, and the Father the West part; *Ex contra regi Nobilitas pro Rege decertare, & filium a Jure regni depellere vellent, si Pater id fieri permisisset, ipse mentis nobilitate ab avaritia sese viris excludens, filii sui concupiscentia satisfecit sicque ubi Pater iusto Dei Judio regnare debuerat, illic filius pertinax & iniquus regnabit;* and when as the whole Nobility of the Kingdom would have fought for the King, and forced his Son from the right of the Kingdom, if his Father would have permitted it to be done; but he being free from all Covetousness, satisfied the unruly Appetite of his Son; and so where the Father ought to have reigned by the just Sentence of God, the obstinate and wicked Son reigned. This Story *Mat. Westm.* had from *Flor. of Worcester* †, tho it is not in the † A. D. last altogether so formal. \* *Malmesbury* 675. likewise hath it, tho not inditely. But \* f. 21. b. the *Saxon* Chronology hath nothing of a. 50. l. 22 it, nay rather it hath something contra- a. n. 10. 20- ry to it. *Eodem anno Æthelwulfus rex magno cum bonore Roman perrexit, ibique 854 per Menses Duodecim moratus est; cui mox domum redeunti Carolus Francorum Rex filiam suam in Reginam dedit; hinc postea ad populum suum reversus est, qui mortificatus erat: sed post hec nonnulli ex quo a Francis redierat, defunctus est, corpus autem Windesore sepulchrum jacet.* In the Year 854. *Æthelwulf* went in great Pomp to *Rome*, where he staid Twelve Months. To whom, as he returned home, *Charles* King of *France* gave him his Daughter for his Queen: Afterwards, when he returned to his People they rejoiced wonderfully; within Two Years after he died, and his Body lies buried at *Winchester*. Not one Word here, or any where else in this Chronology, of this improbable and Romantick Story. But be it true, as it is told in *Mat. Westmister*, was it against their Laws (i. e. the *West-Saxon* Laws) for *Æthelwulf* to marry the King of *France* his Daughter, and make her his Queen? Where is this Law? It is

not amongst *Ina's* Laws. But the Law was made in *Brithric's* time, by reason of the wickedness of his Queen *Eadburgh*. If she was as wicked as the Story makes her, was the Anger and Humour of the People against her, sufficient to make a Law, That for the time coming no *West Saxon* King should permit his Wife to sit and eat with him, or be called Queen? Why was she not put to death for her transcendent Wickedness, if true? Why was she permitted to go into *France*, with innumerable Treasure after her Husband's death? If there was such a Law made then, 'twas in the time of the *Heparchy*. Can any Man think that *Egbert* the first *Saxon* Monarch did not suffer his Wife to sit and eat with him, and to be called Queen? And that our *Æthelwulf*, who had Four Sons by a former Wife, did not permit her to sit and eat with him, and to be called Queen? There was a Conspiracy and wicked Design of *Æthelbald* to dethrone his Father, carried on by *Alston* Bishop of *Shireburn*, and the Earl of *Somerfetshire*, &c. the pretence was, for that he had caused his youngest Son *Alfred* to be crowned at *Rome*. What Laws had *Æthelwulf* broken in this, except the Laws of Birth-right, Lineal Descent, and Proximity of Blood? Upon which the Succession of the Monarchy was fixed, if *Alstan*, *Æthelbald*, or the Earl of *Somerfetshire* understood any thing of it. Nor could there be any Exclusion of *Æthelwulf*, when the whole Nobility offered to fight for, and defend him; nor could there be any Terms of receiving his Son into a share of the Kingdom, when out of ineffable Clemency he himself divided it, to avoid a Civil War, and would not suffer the Nobility to force his Son from the Right of the Kingdom. What right was this? Was it not from Proximity of Blood, and Lineal Succession, he being his eldest Son?

### The Author's Words, p. 15.

*If our Allegiance cannot be transferred by the States of the Realm; it must be because, (as some think) by the Fundamental Constitution of this Kingdom, we are bound in Allegiance to the next Right Heir in a Lineal Succession. But I find no such thing in the Saxon times; for altho they generally kept to the Royal Line, yet not so, but that when it appeared to be much more for the Publick Good, they did not stick upon the Point of Proximity.*

### *What may be opposed to the Words and Assertion of the Author.*

Those, who in these cases our Author, and all others that have written upon this, or the like Subject, do call the *States* of the *Realm*, and what is due to the Heir in a *Lineal Succession* by the Laws of our Land, and consequently by the Constitution of the Kingdom, shall be consider'd afterwards. Concerning the *Saxon* Succession, what hath been already said might be sufficient; but upon further occasion given in his Instances, there will be more said of it. The *Publick Good*, which the Author here, and in many other places, seems to rely mainly upon to support what he asserts, is chiefly to be enquired after.

*Publick* or *Common Good* is a common Notion, and signifies nothing unless it be stated, and explain'd; the true import of the Words are, That every Individual of the common Body, according to the capacity of the Person, should and ought to be made a partaker of the benefit and advantage that ought to accrue to the whole; for if it be such a Good, (or rather such an Evil) as is only for the benefit of a Party, and in respect of the whole, of the least, or a small number; 'tis impossible it should be a *Publick Good*, but a most horrid cheat put upon the People under that pretence, to gull them into Slavery, and

to make them the Authors of their own, and the Publick Ruin of the Nation. All designing Men of whatsoever Persuasion, though if called together, cannot say what they would have; yet in all Ages have pretended to procure the Publick Good of the People. Every Party, (though in the beginning never so inconsiderable) that intends to advance itself, declares for it until it gets Power to manage, and appropriate to themselves what they call so; and then it appears the Interest, Gain, and Advancement of the Party were the End; and the pretence of *Common Good*, but the Means to that End. And this pretence, and false light, hath at all times so Lowbell'd the blind and ignorant World, that Men fly into the Net, though they see all the Laws broken that maintain the *Publick Good*, and the very Foundations of it eradicated; all the goodly Pretences and fair Promises relinquish'd, and utter desolation coming upon them: And therefore where it is manifest the Publick Laws are, or cannot but be broken, contemn'd, and violated by any Party, the *Private and Party-Good* they only intend; and to accomplish their ends, and secure themselves, must proceed against all the Measures and Rules of *Publick Good*, by fraud, force, and violence, accompanied with suspicious Deviation. For nothing can be a *Publick Good* to any Nation, where the exercise and practice of it is not warrant'd by the Law, Custom and Constitution of that Nation. So that the Authors Arguing, upon the account of *Common Good*, signifies little, unless he can prove the Sinner waved Proximity of Blood; and that they did it according to the Law and Constitution of the Kingdom.

### The Author's words, p. 15.

*I shall not meddle with the Kingdom of the Northumbers, which alone was Originally Elective, as appears by Mat. Westm. and wherein there happened so great Disorders and Confusions, that at last William of*

*Malmsh. saith, none could be perswaded to accept of the Kingdom.*

### HISTORY.

*Regnum Northanbunbrorum exordium M. Westm. sumpsit. Cum enim Proceres Anglorum A. D. 548 magnis laboribus & continuis Patriam illam f. 101. n. subjugassent, Idam juvenem Nobilissimum 20.*

*Regem sibi unanimiter presecerunt.* In the year 548 the Kingdom of the Northumbers first began. The chief Men, or Leaders of the *English*, having conquer'd that Country, unanimously set up *Ida*, a most noble young Man, for their King. What if the *English* in the beginning of the Kingdom of the Northumbers did set up *Ida* (in all probability at that time the great Leader of them) to be their King? Doth it therefore follow that Kingdom was Elective, or that they chose their King afterward? The Saxon Chronology says only, *Ida cepit regnare, Unde Northanbunbrorum Genus Regum oritur est.* In the year 547. *Ida* began to Reign, from whom arose the Royal Race of the Northumbers. *Fl. Eod. Anno*

A. D. 547

*Worcester saith, In provincia Beruiciorum Ida regnum suscepit, & 12 annis regnavit; hic ex Regibus sex filios habuit, & ex his sex Regibus. Ex quibus Regibus Northanbunbrorum progenies propagata est.* In the Province of *Berwic* (part of the Kingdom of Northumberland) *Ida* took the Kingdom. He had six Sons by his Queen, and as many by his Barlors; from whom the Royal Stock was propagated. *Malmshury saith, Ida Reigned the first in the Kingdom of Northumberland, but whether he made himself King, verum atram hinc per se Principatum invasit, or took it by the consent of others, he could not decide, parum desino quia Veritas in obscuris est.* In *Brompton*, whom he cites in the Margin, there is nothing to be found of an Election, but only that the Northumbers tumultuously set up some Kings, and Murder'd and De-throned others; which was a common Practice in most Kingdoms during the Saxon Hierarchy; and the same Reason

Fol. 8. n. 40.

Page 101.  
Brompton  
p. 862.  
l. 1. c. 3.  
p. 14.

the Author gives, that he would not meddle with this Kingdom, might have been given for the passing by all the other, except the Kingdom of the West Saxons.

The Author's words, p. 15.

But if by the Fundamental Constitution, Allegiance were indispensably due to the next Rightful Heir in this Monarchy, how came Æthelstan to be Crowned magno consensu Optimatum, says Malmsbury, when he was not the rightful Heir?

## HISTORY.

lor. Wi. *Invictissimus rex Edwardus senior ex*  
 24. f. *hac vita transiens Æthelstano filio regni*  
 22. *gubernacula reliquit; nec multo post filius*  
*eius Ælwardus (alias Edwardus) apud*  
*Oxfordam decessit, & sepultus est ubi &*  
*pater illius. Æthelstanus vero in Kin-*  
*gestune, i. e. in Regia Villâ, in regem e-*  
*levatur, & honorificè ab Athelmo, Dorober-*  
*nenſi Archiepiscopo, consecratur.* The in-  
 vincible King Edward the Elder, pass-  
 ing out of this World, left the Go-  
 vernment of his Kingdom to his Son  
 Æthelstan; and not long after him, his  
 Son Ælward (or Edward) died at Ox-  
 ford, and was buried where his Father  
 was; but, or then, Æthelstan was saluted  
 King, and was honourably Consecrated  
 or Anointed and Crowned by Athelm  
 Arch-Bishop of Canterbury at Kingston.  
 Anno Dominica Incarnationis 924. Æthel-  
 stanus filius Edwardi regnare cepit, frater  
 ejus Æthelwardus (alias Edwardus) pau-  
 cis diebus post patrem vita decedens, sepul-  
 turam cum eodem Wintonie meruerat. This  
 is what Florence of Worcester says, and  
 needs no Translation. Itaque magno  
 consensu optimatum Electus, apud Regiam  
 villam, Quæ vocatur Kingston Coronatus.  
 Therefore being Elected, or Recognized  
 by full consent of the Great Men,  
 he was Crowned at Kingston; and in an-  
 other Place, Post mortem Patris, & In-  
 teritum Fratris, in Regem apud Kingston  
 coronatus est. Anno Gratie 924. Rex An-  
 glorum Edwardus cognomento senior diem

clausit extremum, Æthelstanus quoque filius  
 ejus primogenitus, apud Kingstonam rex cre-  
 atus, ab Athelmo Dorobernenſi Archiepiscopo  
 consecratur. Here Mr. Westm. says, Æ-  
 thelstan was King Edward's Eldest Son,  
 which was true after his Brother was  
 dead. If the Author had taken notice  
 of these Historians, especially of Malms-  
 bury, whom he cites, he would have  
 known how Æthelstan came to be right-  
 ful Heir.

The Authors words, p. 15.

Some say (from an old Monk in Malms-  
 bury) that his Father left him his Crown  
 by his Testament; (which does not clear the  
 difficulty, as to the inviolable right of Suc-  
 cession by the Constitution) But this  
 cannot be true, for his Elder Brother Ed-  
 ward died after his Father, and none pre-  
 tend that his Father disinherited him.

History and Inquiry into these Words.

A pretty Story. This old Monk in  
 Malmsbury, was William of Malmsbury  
 himself (whom he cited but two Lines  
 before) *Jussu Patris in Testamento Æthel-*  
*stanus in Regem acclamatus est.* This the  
 Historian says of himself, without vouch-  
 ing any old Monk for it. By the com-  
 mand of his Father in his Testament,  
 Æthelstan was Proclaimed or Saluted  
 King. Which clears the difficulty about  
 Election, and the States having power to  
 dispose of the Crown. As to the truth  
 of it, no body can doubt, that observes  
 what is said before of his Elder Brother  
 Edward.

The Author's Words, p. 15.

And if Athelstan was Lawful Heir, M. Westm.  
 what made him to dispatch his Brother A. D. 934.  
 Edwin out of the way, and to build two A. D. 939.  
 Monasteries for expiation of that Guilt?

## HISTORY.



## HISTORY.

Florence of Worcester hath nothing of this Idle Story; and Malmshury, from whom *Matt. Westmister* transcribed the very words of it (and added something of his own) did not believe it, and tells it as a *Fable*; but before he begins it, he Apologizes for telling it; and after he had reported the Design, and Conspiracy of *Alfred* against King *Æthelstan*, who would have made him a Bastard, and so kept him from the Throne, saith thus, *Et hac quidem fide integra de rege conscripsi: sequentia magis Cantilenis per Successiones temporum detritis, quam libri ad Institutiones posterorum elucubratil didicerim. Qua ideo apposui, non ut earum veritatem defendam, sed ne Lectorum scientiam defraudem, ac primum de Nativitate dicendum.*

And these things I have written concerning the King, may intirely be believed. Those which follow, I rather learnt from old Songs and Tales, then Books written for the Information of Posterity, which I have inserted here, not that I shall defend the truth of them, but that I may not keep from the Readers what is to be known; and then proceeds to tell a Romantrick Prodigy of a Shepherds Beautiful Daughter, out of whose Womb a Moon shone, that irradiated all England, &c. With this Virgin *Edward* the Elder stole a leap, by the assistance of his sometime Nurse, and upon the first Enjoyment of her, begat *Æthelstan*, &c. And goes on to tell, *Edwin* his Brother was accused by some to have been in the Conspiracy with *Alfred*, and for that Reason, out of Jealousy, he was by order of *Æthelstan* put into a small Pinnace, without either Tackle, or Oars, accompanied only with one Page, with grief whereof he leaped into the Sea and drowned himself. After this he immediately subjoyns; *Hac de fratris necē, etsi verisimilia videantur, cō minus corrodero, quod mirabilem suā pietatis diligentiā in reliquis fratres intenderet. Quos cum pater pueros admodum reliquisset, ille parvos*

*magnā dukedine fovit, & adultos regni conjortes fecit.* Although these things concerning the death of his Brother may seem probable, yet I esteem them less firm, by reason of the admirable Piety he shew'd towards his other Brothers; whom he cherish'd with great kindness, when his Father left them very Children; and when they were grown up, made them sharers in the Government. Not one word in *Malmshury* of *Æthelstan*'s building two Monasteries, to expiate the Guilt of *Edwin*'s murder. This was *Westminster*'s own.

## The Author's Words, p. 15.

How came *Alfred* to oppose his Election, as being Illegitimate, as *Malmshury* confesses?

## HISTORY.

He also confesses, That *Alfred* and his Complices were seditious People, who reported he was born of a Concubine, to obviate his being Crowned; and that Sedition never wants Abettors. *Æthelstanus* apud Regia villa quæ vocatur *Kingston* coronatus, quamvis Quidam *Alfredus* cum factiosis suis, (quia seditio semper invenit complices) obviare tentasset: occasio contradictionis, ut ferunt, quod *Æthelstanus* ex Concubina natus esset; and in another place, King *Edward* and his Son *Edward*, or *Edward*, being dead, Tunc omnium spes in *Æthelstanum* erecta; solus *Alfredus* magna insolentia homo cum suis clam restitit quoad poterat, indignatus subditi Domino, quoniam suo non desisset arbitrio. Then all Mens hopes were placed upon *Æthelstan*, only *Alfred* a Man of great insolence, and his Party opposed him, disdainng to submit to a Governour, that he himself had not set up.

## The Author's Words, p. 15.

But *Matt. Westm.* gives the Reason: The times were then difficult, and *Edwards* other Sons were too young to manage

*Malmg. f.*  
29 a. n. 10,  
l. 2. c. 6.

*Ibid. n. 20,*  
30, 40.

*Malmsh. l.*  
2. c. 6. f.  
26. b. n.  
10.

*Ibid. l. 29,*  
n. 11. 50. 1.

manage the Government, and therefore they set up Athelstan, as one fit for Business.

## HISTORY.

*Mat. Westm.* transcribes many of the Words of *Malmbury* in the place last cited; but leaves out that Clause of *Alfred's* being an Insolent Man, and his making opposition to *Athelstan*; and adds this of his own, *Spets Edwino, nondum ad regnandum propter teneros annos idoneo, Athelstanum in Kingstona consecraverunt.* From the partial Construction and Explication of these last Words above what they will bear, the Author hath set up a particular Sense of his own, against the Sense and Report of all other Historians; nay, against the Report of *M. Westm.* himself, who says, *Athelstan* was made King, and Crowned as *Edward's* eldest Son.

A. D. 934.  
f. 186. n. 20.

A. D. 924.

After the Death of *Athelstan*, his own *M. Westm.* Author says, *Successit ei in regnum frater ejus, Cy habes legitimus Eadmundus.* His Brother, and lawful Heir, *Edmund* succeeded him.

A. D. 940.  
f. 187. lin. 5.

## The Author's Words, p. 16.

*How came Eadred to succeed Edmund, and not his own Sons Edwin, and Edgar?* *Mat. Westm.* and *Brompton* give the same Reason, They were incapable by reason of their Age: *Repugnante illegitima etate patri succedere non valebant.* *Florence of Worcester* saith, *The Northumbrians swore Allegiance to Eadred; and he saith, He was next Heir; and yet there were two Sons of Edmund before him; for he confesses, that they were the Sons of Edmund and Algia his Queen.*

*M. Westm.*  
A. 946.  
*Brompt.* p. 862.  
*Flor. Wig.*  
A. 949.

*M. Westm.*  
f. 188. n. 30.

*Defuncto Edmundo Cy apud Glastonia sepulta, Eadredus frater ejus, in Kingstona regia villa, regi diadema à B. Othone Archiep. Cantuariensi suscepit. Reliquis quoque duos filios, heredes legitimus, Eadwinum Cy Eadgarum, qui repugnante illegitima etate,*

*patri succedere non valebant.* *Edmund* being dead, his Brother *Eadred* was Crowned by *Ordo* Archbishop of *Canterbury*. He left also two Sons his lawful Heirs, *Edwin* and *Edgar*; who by reason of their Nonage, could not succeed their Father.

*Mortuo Edmundo rege, Eadredus frater Brompton, suus, filiusque Regis Athelstani, eo quod pueri col. 862. n. 20. Edwinnus Cy Edgarus filii Edmundi, pra immatura etate adhuc regnare non poterant, sibi in Regem successit, Cy ab Odono Durnberensi Archiep. consecratus est, A. D. 949.* *Edmund* being dead *Eadred* his Brother, and the Son of King *Athelstan*, succeeded him as King, for that the Children *Edwin* and *Edgar*, the Sons of *Edmund*, by reason of their tender Age, could not as yet reign.

*Magnificus rex Anglorum Edmundus die festivitatis Sancti Augustini, Cy. interficitur; mox proximus heres Eadredus fratri succedens, regnum naturale suscepit, a Sancto Odono, Cy. The Magnificent King Edmund was killed on the Festival of St. Austin; presently the next Heir Eadred, succeeding his Brother, took upon him the Government according to Nature, or according to Natural Duty and Affection.* *Flor. Wig.* f. 604. A. D. 946.

If the Author had fairly and truly cited these Three Pieces of History, it had not been impossible to have found out that *Eadred* was but only Tutor, Curator, Regent, or Protector of the young Prince, and Kingdom; and so took upon him the Government, until they were of sufficient Age. *Westminster* says, *Edwin and Edgar were the lawful Heirs of Edmund, (which Words the Author left out) but could not succeed him by reason of their Nonage, or that they were not of lawful Age.* *Brompton* says, *Eadred succeeded his Brother, for that his Sons Edwin and Edgar, by reason of their immature Age could not yet reign.* As much as to say, Tho in respect of their Age they could not as yet reign, yet afterwards in their riper Years they were to reign; and so they did successively. Lastly, *Florence of Worcester* says, *Eadred was next Heir.* What Heir could he be to his Brother, but Epithetary or Testamentary Heir, or Successor? (For in that sense *Mortuo* is commonly

monly used.) And so 'twas most probable, by some Instrument or other he made him Tutor, Curator, Regent, or Protector of his Sons and Kingdom; or that by Consent of the Great Men, he took upon him the Tutorship, and Regency. For what other Meaning can those Words have, *regnum naturale suscepit*, than that according to natural Duty and Affection he took upon him the Government, and Protection of his Nephews, and their Kingdom? But how then came it to pass, that he was Crowned, and called King? 'Tis not hard to answer this Question: For usually the Sons and Heirs of Emperors, Kings, Dukes, Earls, Barons, were not always called so; but Heirs only of the Empire, Kingdom, Dukedom, &c. And the Tutor, Curator, Governor, or Protector, and such as had the Care of them, and the Administration of the Government, were then called Emperors, Kings, Dukes, Earls, &c. of such Empires, Kingdoms, Dukedoms, &c. until the Heir came of Age; and sometimes those Curators and Guardian Kings and Emperors were anointed and crowned: But when the Heirs were of lawful Age, they quitted their Curatorships and Regency, and parted with or laid down all Royal Marks of Majesty, retaining only the Name and Honour of King: And the Title of King, and the Ceremony of Coronation, was allowed and granted to such Regents, that they might have the greater Authority with the People. Of such Curators, Tutors, or Regents, *Du Presu* gives several Examples; and of *Odo* Duke of *Aquitaine*, Tutor to *Charles* the Simple, not much before this time, and of other Kings of *France*, that had Crowned Tutors with the Titles of Kings.

### The Author's Words, p. 16.

After the Death of *Edred*, the eldest Son of *Edmond* succeeded; but being found under a Moral Incapacity. (for in *Florentius* his words, and *M. Westminster*, in *commissio regimine insipienter egit*) he

was set aside, as to all the Government beyond *Thames*, and *Edgar* put into it.

### HISTORY.

*Obiit Edredus Rex die 8. Clementis festi, in statu vigore, decem circiter annos regnabat, deinceps Edwicus, Edmondus Regis filius, regnum cepit, & Sanctum Dunstanum de terra fugavit.* Chron. Sax. A. D. 955

*Edwicus rex Calendis Octobris obiit. Edgarus autem frater ejus regnum cepit. Hic Sanctum Dunstanum accersit, ejusque Episcopatum Wigornensem donavit, & postea Londonensem.* Ibid. A. D. 957.

King *Edred* died in the Festival of *St. Clement*, in the vigor of his Age, after he had reigned about Ten years. Then *Edwy* the Son of *Edmond* enjoy'd the Kingdom, and banish'd *St. Dunstan*.

*Edwy* died the First of *October*, and his Brother *Edgar* took the Kingdom, and recalled *St. Dunstan*, and gave him the Bishoprick of *Worcester*, and afterward that of *London*. This Chronology hath not one word of the *Northumbrians* and *Mercians* rejecting *Edwy*, and choosing *Edgar*.

*Rex Anglorum Edwicus, quoniam in commissio regimine insipienter egit, a Mercensibus & Northumbrensis contemptus relinquitur. Et suus germanus Clito Edgarus ab eis rex eligitur, sicque res Regum separata est, ut flumen Thamesii regnum divideret amborum: mox Rex Mercensium Edgarus beatum Dunstanum Abbatem (then Abbot of *Glastenbury*) cum honore & gloria revocavit.* Flor. Wigorn. eodem An.  
King *Edwy*, because he acted foolishly in his Government, was despised, and deserted by the *Mercians*, and *Northumbrians*, and his Brother Prince *Edgar* chosen; and the Government of the Kings was so divided, as the *Thames* bounded both their Kingdoms; and King *Edgar* presently called back *St. Dunstan* the Abbot with honour and glory. The Words of *St. Westminster* are mostly the very same, as these before-cited; the Sense differs not. After this, they both tell, how Abbot *Dunstan* was made, first Bishop of *Worcester*, then of *London*,

*Du Presu*  
Gloss. vol. 2.  
in verb. Hz-  
redes, cal.  
686, 687.

A. 957.

London, by King Edgar. The Author at his first entrance upon the Saxon Instances, p. 15. said, he would not meddle with the Kingdom of Northumbers (which in this place both the Historians he cites do expressly mention) for Reasons there given; and therefore thinking this Instance to be for his purpose, he cunningly omits to mention that Nation, as believing for his own Reasons it might undervalue the Instance; and only says, Edwy was set aside as to all the Government beyond Thames, and Edgar put into it.

But what if the Northumbrians and Mercians did reject him? 'Twas no more than the Northumbrians had done in the two preceding Reigns. They made a League with Æthelstan, and confirm'd it by Oath; yet they called in Anlaf a Pagan King, and rais'd War against him: And tho' he, and Constantine King of Scots his Assistant, and the Northumbrians were baffled with great Slaughter of their Men, yet but Four years after, and in the First year of King Edmund, Northimbrenses fidelitati, quam magnifico regi Anglorum Edmundo, debebant, infidelitatem præsentes, Regem Northmannorum Anlafum sibi in regem eligerunt. The Northumbrians preferring Infidelity to the Fealty they ought to the Magnificent King Edmund, chose Anlaf King of Norway for their

*Ibid.* A. D. 944. King. Three years after, Magnificus rex Anglorum Edmundus duos reges Anlafum, Regis videlicet Sithrici filium, & Reignoldum Guthfredi filium de Northumbria expulit, eamque sua ditioni subegit. King Edmund drove two Kings, Anlaf the Son of Sithric, and Reinold the Son of Gutred, out of Northumberland, and conquer'd,

*Ibid.* A. D. 945. or reduced it under his Power. And Five years after that, Wulfstan Archiepiscopus Eboracensis, procuresque Northimbrenses omnes, egregio regi Anglorum Edredo fidelitatem juraverunt, sed non illam diu tenuerunt. Wulfstan Archbishop of York, and all the Great Men of Northumberland, sware Fealty to the famous King Edred, but did not long keep it: Namque quendam Danicâ stirpe progenitum (Ircum nomine) super se Regem levaverunt: For

they set up Iric, a Dane, King over them: And the very next year King Edred *Ibid.* A. D. threatening to destroy the whole Country, 950. they threw down Iric, (Ircum quem sibi regem præsereant abiecerunt) and compounded with Edred for a great Sum of Money. And seven years after they revolted from Edwin, and set up his Brother Edgar: And like them were the Mercians. Would any Man fetch an Instance from these People, to confirm and warrant what he would prove, or have thought to be a just and regular Proceeding?

But what was his Crime? How did he play the Fool? Why, he banisht Dunstan Chief of the Monks, turn'd the Monks out of Monasteries, and put in Secular Priests, and made bold with the Monks Revenue: By which Folly he made them his Enemies, and lost the People, so as he could not chastise the Northumbrians, as Edred had done before him; and so was forced to be content to let his Brother Edgar enjoy Mercia and Northumberland; who forthwith recalled Dunstan from Exile, and restored the Monks, where he could; which made him secure against his Brother Edwy, after whose Death he possess'd the whole Nation.

*Malmsh. l.*  
11. c. 7. f.  
30. a. & 20.  
30.

*Chron. Sax.*  
A. D. 957.

### The Author's Words, p. 16.

How came there to be a Dispute about the Election, after the death of Edgar, between his eldest Son Edward, and Etheldred his youngest?

### HISTORY.

Malmshury answers the Question. *Ed-* L. 2. c. 9:  
*wardum Dunstanus & ceteri Episcopi con-* f. 33. b. n.  
*sentant, regali culmine sublimarunt, contra* 40.  
*voluntatem quorundam (ut aiunt) Optima-*  
*tum & Noverca, qua vix Septem annorum*  
*puerulum Ethelredum filium, suum prove-*  
*bere conabatur, ut ipsa potius sub ejus no-*  
*mine imperitaret. Dunstan and the other*  
*Bishops that agreed with him, set Ed-*  
*ward in the Throne, against the mind*  
(as



(as they say) of some great Men, and his Stepmother, who endeavoured to set up her Son *Ethelred*, a Child scarce Seven Years old, that under his name she might reign.

### The Author's Words, p. 16.

*I lay no force upon his Mothers endeavours to advance him; but if there had been such an unalterable Right of Succession, there had not been any colour or pretence for it.*

*Tu true, there neither was nor could be any; yet she with her Friends endeavour'd it, and seeing she could not do it that way, she afterwards caus'd Edward to be murder'd, that the Right of Succession might be in her Son after the Eldest was taken away; so much the unalterable Right of Succession was then understood. But saith Flor. Wig. there was a great Contention amongst the great Men about the choice of the King. How could there be any dispute if they knew the Constitution of the Kingdom to be, that the next Heir must inherit the Crown.*

A. 975.

### HISTORY.

*Flor. Wig. De rege eligendo magna inter regni primores oborta est dissensio. Quidam namque Regis filium Edwardum, quidam autem fratrem ipsius elegerunt Ethelredum. Quam ob causam Archiepiscopus, Dunstanus & Oswaldus cum Corepiscopis, Abbatibus, Ducibusque quam plurimis, in unum convenerunt, & Edwardum, ut pater ejus preciperat, elegerunt, electum consecraverunt, & in Regem unxerunt. There was a great Contention amongst the prime Men of the Kingdom about choosing, or setting up a King. Some were for Edward, some for Ethelred; For which cause the Archbishops Dunstan and Oswald, with their Suffragans, the Abbots, and very many great Men, assembled and chose Edward, as his Father had commanded, consecrated and anointed him King. From what hath been said before, it appears those that would have set up Ethelred against the Right of Succession, and against Edward, King Edgar's eldest Son,*

*Flor. Wig. f. 607. A. D. 975.*

were his Stepmother and her Party: the others that opposed her Design, and kept fast to Edward, were for the Right of Succession: with the last the Parliament, as the Constitution then was, or the Great Assembly of the Nation, that is, the Archbishops, Bishops, Abbots, and very many Noblemen concurred, and chose, or recognized and crowned Edward their King; whom his Father at his Death *Regni & morum Hæredem* *Ibidem.* reliquit, left Heir of his Kingdom and Temper. It cannot be thought but this Assembly understood the Constitution of the Nation; and yet there arose a dispute about the Succession. The best Laws in the World cannot keep Men from being wicked, nor secure the Government from the Attempts of Intruders and Usurpers, when they think they have Opportunity and Means to set themselves up, let the Constitution be never so clear and well known. If the Author would have look'd into, or considered the cause of this Contention about the Succession, he might as well have asked how can there be any Intruders against the known Constitution, as how could there be a Dispute about the Succession? *M. Westminster* says, Edward retained only the Name of a King, and by the Flattery of his Stepmother, be permitted to her and her Son Ethelred the Transfession of all the Affairs of the Kingdom. Yet so powerful a thing, and so agreeable to the Constitution, was Succession by Birthright, that for the establishing her Son in the Throne, the very next Year she caus'd Edward to be murdered, and triumph'd at his Death.

The next are his *Danish* Instances. These People had the Sword only for their Title, and staid but Five and twenty Years or thereabouts: Nor can any Man affirm from our Historians what the Constitution of the Kingdom was then, as to the Government or Governours; and the manner of, and chief pretence to the Succession, was Donation; as hath been noted before, to which the Reader is referred. *Edmund Ironside*, the true

A. D. 975

*Ibid. A. D. 978. Flor. Wig. eod. Anno.*

C Lineal

lineal Saxon Heir, made an agreement with Canutus, and divided the Kingdom with him, who had no other presence to the Throne, than his Father Swere's Conquest, and his own Army of Danes to make it good. After the Death of Edmund, the Bishops and English Nobility sware they would have Crute for their King, would humbly obey him, and pay his Taxes for his Army. *Eique humiliter obedire uellent, ex suo exercitui ueligeria dare.* Let the Author say, whether it were not Force and Fear made these Men swear?

ther's Army, which set him up; and it may be with the Assistance of the complying English.

### The Author's Word's, p. 17.

*If the Lineal Succession were a part of our Constitution; how come such perpetual Disputes to be concerning it? For if it had been own'd as a Fundamental Law, the right of Succession must have been clear beyond dispute.*

### What may be said to the Reasoning of the Author.

### The Author's Words, p. 17.

1055. *After the death of Canutus, a new difference arose about the Succession; some were for Harold, his supposed Son by Al-giva; others for Hardecnut, his Son by Emma.*

### HISTORY.

*valmsb. l. f. 12. f. 1. b. n. 50. 43. a lin. &c.*  
After the Death of Crute, Edgericus Haraldum Dux ex Londonia ciues, qui jam penè in Barbacorum moras propter frequentem convictum transferant. Angli diu obstitere, magis uixit ex filio Etheled, qui in Normannia, uel Hardecnutum filium Canutii ex Emma, qui tunc in Danemarchia erat, regem habere uolentes. The Danes, and Citizens of London, who were almost become barbarous by their Commerce with them, chose Harold: the English opposed, and had rather have had for their King one of the Sons of Etheled, who were then in Normandy, or Hardecnut, the Son of Crute by Emma, who was then in Danemark, Earl Godwin, who profess himself Tutor or Curator of the Children (*pupillorum Tutorem se professus*) headed the English; but at length, being unequal in Force and Number, gave way to violence; sed tandem vi ex numero impar, cessit violentia. All Historians concluded Harold to have been a Bastard; yet without doubt he had a very great Command in his Fa-

The Author would be thought to have read much History; but certainly he never considered what he read. Did he in all his reading never meet with Usurpers, Invaders, and Intruders? Did he never read of Men, that above all things desired to be Kings, though they knew they had no right to be so? Did he never read of the Attempts of such Men to make themselves so; and that some have failed, and others succeeded in those Attempts? Did he never read, that such Men always had Abettors, and a Party to carry on their Designs? Did he never hear of such wicked Men, as have acted contrary to the lights of Nature, and their own Consciences? or to the great Rule of all Mankind; Do as you would have others do unto you? The Fundamental Law, of Succession may be as clear, as the Light it self; yet Invaders, though they know it, will not see it, nor do think themselves bound by it; but their whole Contrivance is how to evade, baffle, and enervate that Law, and every other Law that stands in their way, and yet pretend to advance the Publick Interest, the Common Good of the People, when they intend only to set up their own, and the Interest of the Party, against the known Laws of the Nation. If these things have frequently been, they may be so again. 'Tis the Invader, and Intruder,

murder, makes the Dispute, not the Person in Possession by a lawful Title; he never goes about to quarrel with his own Right and just Occupancy; and therefore 'tis not hard to know, how Disputes come to be about Lineal Succession. Though the Right be clear beyond dispute, Men of designs against the clearest Right will take hold of, and make advantage of every opportunity to kill their business.

### The Words of the Author subjoin'd to his Reasoning, p. 17.

Our reason of State, and the publick Interest still over-ruled this matter, and so Edward's Sons by Emma, who were the true heirs by legal Succession, were set aside; and Harold, being upon the place, and so best able to manage the affairs of the Kingdom, carried it.

### What may be said to the Author's Inference from his precedens Reasoning.

A fine Piece of Art and Legerdemain. How did Harold carry it? Malinsbury tells us by force and violence. What reason of State, or publick Interest could make the Saxons set aside the next Heir, (if they could have had him for their King) and place in the Throne a Stranger, the Son of a Conqueror, with his Fathers Army at his Heels? Had not the Danes the greatest share in making him King? and could the Saxons think otherwise, than that they would have the greatest share in the Government? What Affairs of the Kingdom was Harold best able to manage? Certainly not the Affairs, and publick Interest of the Saxons: They could not believe it, when he had an Army, and great numbers of his own Countrymen, with their Families, to provide for; and when they could not but see, the Nation was to be plann'd by Foreigners, who must be their Masters. Therefore what reason of

State, what publick Interest could there be, for Harold's carrying of the Crown and Kingdom, as the Author neatly Bircheth it?

### The Words of the Author, p. 18.

Now if there be no Rule, it is not possible to justify Consensus in the Niceties of Things, of where be a Rule, the general consent of the People, join'd with the Common Good, seems to have been that which our Ancestors proceeded by.

### What may be oppos'd to this saying.

The general Consent of the People, in conjunction with Common Good, or these two joyn'd, never was actually in Practice, nor never can be. Where, or how can all the People meet? or if that could be, how can they join in establishing of the Notion of Common Good? Were they ever all of one mind? Were not they ever, since things were, of divers Parties, and chose of different Judgments, what the Common Good was? Was there not partiality in every Party? And did not every Party believe that was the common Good, which they apprehended to be so; and since best with their Interest, and Proposals to themselves? But the People meet by their Representatives. Did ever all the People meet to choose them? Hath not a Party commonly chosen for the whole, excluding all others? Or have not Men of a Party imposed themselves upon the People, and usurp'd the general consent of the whole? Upon a strict enquiry, this will appear to have been the general Practice. Where then is the General Consent of the People; as for Common Good, enough hath been said before to invalidate that pretence; and for the Confirmation of the General consent of the People and Common Good, the Author talks of, let him shew it practicable if he can. Do as you would be done by, is the Ground and Foundation of Common Good (as hath been said before) but when, and

where did the general and free Consent of the People, high and low, concur and unite in this Foundation? If all Men would build upon it, none could receive wrong or injury; there could be no Disputes about any matter whatever, if Men would make this Rule the measure of their Actions. In the mean time, while Men can arrive at this perfection, The *Legal Constitution* by which the Kingdom hath flourisht, and been supported in great Reputation for some hundreds of years, is the best and safest Rule for all *sober Men* (to use the Authors Phrase) to proceed by. When Men go from the Law, and legal Establishment, they walk in the dark, and go they know not whither, and travel while they make themselves not only uneasy but miserable.

'Tis a strange fate upon the People, that their name is always used; their benefit pretended; their power to create right to Govern, and Governors magnified by restless Projectors, whose only design is to dig up the very Foundations of *Legal Settlements*, and such as by many Ages have been found by experience to have been for the ease, quiet, and benefit of the People, who are never in greater danger, than when they listen to such Men, that promise to make them happy by *Eutopian*, *Illegal*, and *Impracticable Schemes and Devices*; after misery and desolation is brought upon them, their Consent is pretended, and vouched to warrant it. If the Author could have prevailed with himself to have read the several Declarations, Remonstrances, and almost innumerable other Papers, printed between the years 1640. and 1660. all filled with the *Consent, Rights, and Authority of the People*; and holding forth *Common Good, and Publick Interest*, and asserting and maintaining both those *impracticable Notions* (after such manner, as the People are made to believe they belong unto them) in every change of Affairs and Government, that then happened; he could not have been so fond of, or so often have vain-

ly, and to no purpose repeated these two empty, idle sayings, and expressions.

### The Author's Words, p. 19.

*I take ours to be a true, original Monarchy; especially after the Rights of the lesser Monarchies were swallowed up, or deliver'd into that of the West-Saxon Kings. And farther, I do not stick to affirm, that it was Hereditary, where the Right of Succession and the Publick Good, did not interfere, i. e. where there was not a natural or moral Incapacity; a natural, as in the Sons of the Elder Edmond, when Edred was made King before them; a Moral, as when Edgar's Elder Brother was set aside for ill Government by one half of the Nation, and the other never disputed the matter with them.*

### What may be said this.

As to his Distinction of *natural or moral Incapacity*, since a Protector, or a Protector and Council may supply, and have often supplied both those incapacities, it signifies nothing. And as to his Examples of *Edred's Government* in the Minority of *Edmund's Sons*; and of *Edwy, Edgar's elder Brother*, being deserted by half the Nation, they have been spoken to before.

### The Author's words in the same Page.

*These things I mention to shew, That although this were a true and successive Monarchy in ordinary course; yet where the Publick Good was by the Estates of the Realm judged to require it; they thought it no Perjury or breach of Faith, to transfer their Allegiance, although it were without the consent of the actual Governor, or the next Lineal Heir.*

What



*What may be said to this Passage.*

The things hitherto mentioned by the Author, were his *Saxon* and *Danish* Instances; and whatever appears by those Instances to have been done, was done by a *Party* (as hath been shewn from undoubted History) and not by Representatives of the Nation; yet such *Party* or *Parties* he calls the *States* of the *Realm*, as his Tutor *Robert Parsons* the *Jesuit*, alias *Doleman*, hath taught him; especially in the 4th, 7th, 8th, and 9th Chapters of the first part of his *Conference about the Succession to the Crown of England*: where are to be found all the Author's *Saxon* and *Danish* Instances urged, and applied in the same manner, and to the same purpose, as they are in this Author; and also his two *Norman* Instances, that of *Maud the Empress*, Hen. 2; and *King Stephen*; the other of the two Houses of *Tork* and *LANCASTER*, in his Second Part of the *Conference*, cap. 2. and 3. and likewise in Mr. *Pryn's* first Part of the *Sovereignty of Parliament and Kingdom*, p. 7, 8, 9. and the two *Norman* Instances p. 94, 95. Mr. *Pryn* followed *Doleman*, who says all *Kings* that take *Coronation Oaths* are *Elected*. Conf. of Success: part 1. cap. 5. and all *Invaders*, or *Intruders*, that set up themselves by the help of a *Party* only, were *Elected* and set up by the *States*, or *Commonwealth*. Those *Parties* the *Jesuit* calls the *State* or *Commonwealth*, Mr. *Pryn* calls *Parliament* or *Kingdom* in the very same Instances; but this Author is best pleased with the *Jesuits* Expressions, and useth them most frequently. But if he had consider'd what Mr. *Pryn* hath written since the year 1648. and in that year against his own former Notions and Opinions, about the *Sovereignty of Parliament and Kingdom*, &c. especially his *Plea* for the *House of Lords*, his four Parts of a *brief Register of Parliament Writs*, his *Animadversions* upon *Coke's* 4th. *Institute*, and many other Writings, and the *Epistles* to them; He

would never have Published such Instances, baffled by him, and many others.

If the *States* (as he calls them) had had upon the Consideration of *Publick Good*, the Power he speaks of, and that it was known and legal; or if the Crown had according to the Constitution been at their Disposal; supposing the *Saxon Estates* had freely chosen *Canutus*, as he vainly Asserts; what could prompt him to cause *Edwin*, *Edmond Ironside's* Brother, to be murder'd, and to send his two Sons *Edward* and *Edmond* to the King of *Swedes*, that they also might be murder'd? And if the Succession had not been notoriously, wholly, and completely Hereditary; what need he to have scared the Title, and Succession of the Sons and Brother of *Edmond*, if it had been true what the Author insinuates, that he was legally Elected, and upon account of the *Publick Good*? Besides imposing Parties, small Numbers, and Factions upon his Readers, and calling them the *States*; he hath another pretty knack of imposing upon them, by telling them *Oaths* made to foreign Kings (such as the *Danes* were) and forced upon the Nation by Foreign Armies) was transferring of Allegiance; as if the People then were wonderfully pleased, and satisfied with their new Masters. From these Instances and Topicks he might as well have proved, that because this Nation hath been overrun, and possessed by *Saxons* and *Danes*, with their miscellaneous Assistants; therefore it may be expedient it should be so again. They seem to be Arguments to encourage such another undertaking, rather than any thing else.

After the *Saxon* Constitution, he comes to the *Norman*, and there makes only two Instances.

The words of the Author, p. 20.

The first Instance I shall bring, is in the Case of the *Oath* taken to *Maud* the Daughter of *Hen. 1.* in the Thirty first year of his Reign: and there is no question, but he de-

Flor. Wig.  
A.D. 1016.

signed

Malsb.  
Hist. novel.  
l. i. p. 100.  
105. 2.

signed her to succeed him, legitima & perenni successione, as Malsbury's words are: but Stephen who had before sworn Allegiance to her) watched his opportunity, and by the help of a Party made by his Brother (the Bishop of Winchester) he was Crowned King; and although at first, Malsbury saith, but three Bishops, and very few Noblemen joynd with him; yet he soon after saith, that most of them went into him; and even Robert of Gloucester, King Henry the first's natural Son, took an Oath to him, but with the Condition of his preserving his Honour and Covenants. There are several things worth our observation, in this affair, with respect to the Oaths of Allegiance.

## HISTORY.

Malsb. f.  
99. a. n.  
30.

Anno 27. Regni sui Rex Henricus Angliam venit mense Septembri, adducens secum filium suum, &c. In the 27th year of his Reign King Henry came to England, in the Month of September, and brought with him his Daughter. He called together at Christmas a great number of the Clergy and chief Men of the Kingdom at London; and being much grieved he was like to have no Children by his Second Wife, the Duke of Lorraine's Daughter; he was very thoughtful about a Successor; and having a long time before deliberated about that matter, Time in eodem Concilio, omnes tunc Anglia Optimates, Episcopus etiam & Abbatet sacramento adiegit & obstrinxit; ut si ipsi sine herede masculo decederent, Matridum filium suum, quandam Imperatricem, incunctanter & sine ulla revocatione Dominam reciperent. Then in the same Council he bound all the chief men of England, the Bishops also, and Abbots by Oath, that if he should die without Heir Male, they should forthwith, without retraction or revoking their Oath, receive his Daughter Maud, late Empress, for their Queen. Having before told them what a great loss the Nation sustein'd by the death of his Son William, to whom by right the Kingdom belonged; and now that his

Daughter survived, to whom only the Lawful Succession was due, from her Grandfather, Uncle, and Father, that were Kings, and from the Stock of her Mother many Ages; cui soli legitima debeatur successio, ab eis, uncinde, & patre regibus, & a matrem genere multis retro seculis; quidem ab Egberto West-Saxonum rege, &c. For from Egbert, King of the West-Saxons, who first subdued the other Saxon Kings, in the year 800, during the Reign of Fourteen Kings, unto the year 1043. when Edward the Confessor was Crowned King, the Line of the Royal Blood never failed, nor was there one wrong step, or halt made in the Succession; nec unquam ejusdem regibus longitate linea defecti, nec in Successione regni aliquid aversum. All Persons of any moment in this Council did take the Oath, first William Archbishop of Canterbury, then the other Bishops and Abbats. The first of the Lay-men that took it, was David King of Scots, the next Stephen Earl of Mortaign, and Bohem (afterward King Stephen) and then Robert Duke of Gloucester, King Henry's natural Son.

Anno 31. Regni sui Rex Henricus rediit in Angliam, &c. In the thirtyfirst year of his Reign, King Henry returned into England, and the Empress also; and in a great Assembly of the Nobility or Great Men at Northampton, those which had sworn before, renewed their Oath, and those that had not, did then swear, or give their Faith unto her.

King Henry died in the Thirty fifth year of his Reign; and in his sickness being asked by Robert Earl of Gloucester, and the Noblemen that were then with him, about a Successor; a quibus de successore interrogatus, filiam unicum regium suum, citra & ultra mare, legitima & perenni Successione adjudicavit, he gave all his Lands every where to his Daughter, as to his Lawful Successor.

After the death of King Henry, which happen'd upon the first of December that year; the Empress, Robert Earl of Gloucester, with most of the Noblemen, delay'd their return for England: whereas Stephen

Ibid. n. 40.

\*The Historian doth not reckon the Danish Kings amongst them, there were 14 Saxon Kings beside them. Ibid. n. 50. b. lin. 1. &c. Ibid. f. 100. a. n. 40.

Ibid. b. n. 30.

Ibid. f. 101. a. lin. 5.

- Ibid. n. 10. Stephen made all the haste he could, and by the rapidity of his passage being come, the Londoners and People of Winchester own him as King: And he drew unto him Roger Bishop of Salisbury, and William de Pant Larch, Keeper of the King's Treasury: But all his Endeavors had come to nothing, if his Brother Henry Bishop of Winchester, and at that time the Pope's Legat, had not been his best Assistant: William Archbishop of Canterbury acquired of him an Oath, That he would restore and preserve the Liberties of the Church, and the Bishop of Winchester became his Surety for the doing of it: He was very sweet in his Person, but they wanted performance. He was Crowned the 22<sup>d</sup> of December, there being present only three Bishops, the Archbishop, the Bishops of Winchester and Salisbury, no Abbots, and but few Noble or Great Men. *Cornutus est rex in regem Anglia Stephanus, inductione Calixti. Januarii 1135. tribus Episcopis presens, Archiepiscopo, Wintoniensi, Saresburienf, nullis Abbatibus, paucisq; Optimis.*
- Ibid. n. 40. Having made the Treasures of his Party, he immediately became Master of the Treasury, which was near 100000*l*. in ready Money, besides Gold and Silver Vessels of great weight, and inestimable value. Having so great Treasure, he could not want Assistants, but chose Garganus, Italian, and likewise decessus potentior, especially being very profuse in his Gifts. All sorts of Soldiers flock'd to him out of Flanders, and Britain, most notorious Murderers, and cruel People, who robbed Churches, and pulled Men of Religious Orders from their Houses, and imprisoned them, without regard; *Et ex genus hominum rapacissimum et violentissimum, qui nil peius habebant ut cuncteria frangeret, vel Ecclesiam expellere, Religiosi quatuordecim ordinibus non saltem exque propere, sed etiam indolens milites, &c.* Neither were Strangers only, but home-bred Soldiers or Knights, who hated Times of Peace, toward the end of King Henry's Reign, because then they lived meanly, easily brought to his Party, mistaking thereby their Fortunes from the Loss and Ruin of the People: *Pro- viciatim diffundis suis fortunas argentes.*
- Ibid. b. lin. Farther, Stephen when he was Earl, by his ease and jocular Conversation, and his Familiarity with the meanest Persons, had wonderfully gain'd the Affections of the People, so that all the Noblemen of England came readily to him. In the mean time, the wise Earl of Gloucester was solicitous how he might shew them their Faults, and by Discourse bring them back to a better Opinion; for there was nothing to be attempted by Force, for the Cause before mention'd; nor was it free for him to come into England, unless for a time he could dissemble, and appear as if he were a Party in the Defection, (*quasi defectionis curam pariter*) wherefore he did Homage to the King, upon Condition, that is to say, so long as he kept his Dignity entire, and performed his Agreement and Covenants, *scilicet quantum ad dignitatem suam integre custodiret, et fidei pacta servaret.* For long before he knew the Temper of the King, and foresaw the Instability of his Faith, *spoliatus enim janududum regis ingenio, instabilitatem fidei providens.*
- Ibid. n. 10. In the same Year, not much after the coming of the Earl, the Bishops swore Fealty to the King, so long as he should preserve the Liberty, and strict Discipline of the Church; which he then swore to do according to his Charter, that consisteth mostly of Privileges granted to the Clergy, and is there repeated, and is dated 1136. in the first Year of his Reign: But the Historian says, he disdain'd to put the Names of the Witnesses, which were many, because he changed all things so perversely, as if he had only sworn, that he might shew the whole Kingdom, he had sworn to what he never intended to perform; *monita Testium, qui multi fuerant, appinere sustinet; quia pena omnia ita perpetrata mutarent, quasi ad hoc tantum iurasset, ut prout videretur sacramenti se regis tot ostendentes.* In this Grant, he says, he was chosen

chosen King by the Clergy and Laity, crowned by William Archbishop of Canterbury, and afterwards confirmed by Pope Innocent; the Bull of which Confirmation may be seen in the History of Richard Prior of Hagulstad, col. 313. n 30. The Witnesses to his Charter, or Grant, were most of the Bishops, Earls, and Noblemen, and all Normans, and may be found in the same History, Col. 314. n 60. This is the true History, how Stephen came to be King, taken from William of Malmesbury, who lived and wrote at the very time these things were done, and wrote them at the Request of Robert Earl of Gloucester.

### The Author's Words, p.20 .

*The first Observation upon his own History of Maud's Title, and Stephen's coming to the Crown before noted, is, That if it hold that an Oath was first taken to Maud by the Bishops and Nobility, and afterwards to King Stephen, an Oath of Allegiance may cease without Discharge from the Party to whom it was made; and so the Archbishop of Canterbury, and the Bishops of Winchester and Salisbury, as well as the Nobility, thought themselves at liberty to take a new Oath of Allegiance, without a Release from the Party concerned in the former Oath.*

### What may be said to this.

\*Tis not to be doubted, but the Author knows what Religion was profest in this Nation at that time, and only that; and knows also, those of that Persuasion did, and do believe the Head of their Church had, and hath Power to make an Oath cease, without discharge from the Party to whom it is made: And so the three Bishops thought themselves at liberty to take a new Oath of Allegiance, without a Release from the Party concerned in the former Oath, when they had his Authority; and that they so had, is manifest from the following brief Narrative. Stephen was crowned on the Ele-

venth of the Kalends of January, or 22 of December; and the Earl of Gloucester came into England after Easter next following; and it was after his coming, that the Bishops swore Fealty to Stephen, *Eodem anno non multum post adventum Comitum juraverunt Episcopi Fidelitatem regi, &c.* at which time he also swore to preserve the Liberty, and strict Discipline of the Church, as they were drawn up in a Charter or Grant, in which the Pope's Confirmation of his Title is mentioned; the beginning whereof runs thus: *Ego Stephanus Dei gratia, assensu Cleri & Populi in Regem Anglia electus, & a Domino Wilhelmo Archiepiscopo Cantuariæ, & Sancta Ecclesiam Romana Legato consecratus, & ab Innocentio Sancta sedis Romana Pontifice postmodum confirmatus, &c.* I Stephen by the Grace of God, by the Assent of the Clergy and People chosen King of England, crowned by William Archbishop of Canterbury, and the Legat of the Roman See, (who was his Brother) and confirmed by Pope Innocent, &c.

And notwithstanding he was at first set up by the Fraud and Artifice of three or four Persons, and the Bishops especially, who then govern'd the Nation, and that he immediately forced himself upon the then Norman Government by an Army of Foreigners, plundering and cruel Flemings, and Britons, and bane-bred Norman Soldiers, that knew not how to live, as appears by the History before-recited; yet the Archbishops and Bishops suggested Richard to the Pope, That after the Death of Prior of King Henry, Religion in England was disturbed, *turbata est religio in regno Anglia, or Hextri- & nullum mandatum pacis seu iustitia in am Col. adiutorio regali vigeat, and there was no 313. n.30. Royal Command for either Peace or Justice: and that the greatest Wickednesses were committed with impunity, atque atrocitatem tantorum scelerum comitabatur Bull. impunitas, and that for the putting a stop to such Evils, Stephen was chosen King communi voto, & unanimi assensu tam procerum, quam etiam populi, by the common Voice and unanimous Assent of the Great Men and People, and crowned by the Bishops,*

*Ibid. f. 101. a. n. 20. Ibid. n. 40. Ibid. b. n. 10.*

*Ibidem.*



Bishops; and all this was testified by the *Letters or Instruments* of the Archbishops and Bishops of the Countrey, and the Lovers of the Holy *Romane Church*, the glorious King of France,

† This was Theobald, *admodum venerabilium fratrum nostrorum, Archiepiscoporum eorundem Regionum, & Amatorum Sancte Romane Ecclesie, gloriosi Francorum Regis, & illustris Viri Comitibus Theobaldi scripta testantur.* Then upon this recounting the Suggestions, the Pope and Title-Maker, says, *Nos cognoscentes Vota tantorum Virorum, in personam tuam precumque divina Gratia convenisse, &c.* We knowing the Votes of such great Men to have concurr'd in the Choice of thy Person, by the Guidance of Divine Grace. And for these things, and his promise of Obedience, and doing Honour to St. Peter, he confirms what had been done, and grants him the same Honour and Prerogative he had granted to his Predecessor Henry. This *Bull of Confirmation* was directed to King Stephen; *Innocentius Episcopus, &c. carissimo in Christo filio Stephano illustri Anglorum regi salutem & Apostolicam benedictionem.* From the precedent Narrative it is evident the Bishops solicited this *Bull of Confirmation*, and obtained it before they sware Fealty to King Stephen, though upon false Suggestions: However, the Pope knew he was chosen by the Guidance of Divine Grace, and the Bishops and Nobility believed him to be infallible; or, at least, had such a Difference to his Confirmation of Stephen, that they took themselves to be discharged and released from their Oaths made to Maud; for if this Confirmation was valid, her Title was made null and void.

Maimsb.  
f. 108. a.m.  
40, 50.

That such as favour'd Stephen, own'd his Title from the Pope, it is evident from his Brother the *Legat's* Speech, (who left Stephen, and adhered to Maud; and then revolted from her, to him again,) when he called a Council at *Wimster* by his Legantine Power, wherein chiding Let-

ters from the Pope were read, because he had not delivered his Brother Stephen, then in Prison; in which he was exhorted to do it, either by Ecclesiastical or Secular Power: After the reading whereof, he made a Speech in excuse of his faithless Actions, and commanded those present, on behalf of God and the Pope, (*ex parte Dei & Apostolici.*) that they should aid the King with their utmost Power, who was anointed by the Will of the People, and Assent of the Apostolick See, (*volumante populi, & assensu Apostolice sedis inunctum*) and to excommunicate all Perturbers of the Peace, that favoured the Dutcheß of Anjou, *i. e. Maud.*

If the Author had understood this, he would scarcely have ventured upon this Instance, to have confirmed his Opinion about the Release and Discharging of Oaths.

#### The Words of the Author, p. 23.

Secondly, That upon the Agreement between King Stephen and Henry II. Maud herself was set aside, and Stephen was to continue King for his Life, and Henry II. to succeed him. Now, if Oaths of Allegiance must not be interpreted by the publick Good, here are insuperable Difficulties as to the Obligations of these Oaths, for the Allegiance was transferred from the right Heir, to an Usurper; as Stephen must be owned to have been by those who deny that Allegiance can be transferred from the right Heir: And they must continue Allegiance to the Usurper for his Life, which is repugnant to the nature of our Constitution, if it be founded in a Lineal and Legal Succession. And again, Maud, to whom they had sworn, is set aside, and the Reversion of the Crown is entailed on her Son, although she was living.

What may be replied to this.

The insuperable Difficulties have been overcome before. in the Discourse about the Pope's Confirmation of King Stephen:

phen: As to *Mud's* having been set aside, it shall be considered in the last Paragraph of this Instance, and also something more said of this *Publick Good*, which brought on this Agreement, and what it was; but it must needs be so, because done by the Common-Council of the Nation.

The Author's Words in the same Page.

- A. 1153. Matt. Westm. and Paris say, *The Right of King Henry II. was declared by King Stephen, in conventu Episcoporum, & aliorum de regno Optumatum; which was the Description of a Parliament at that time, for as yet the Baronage represented the Nation; which shows how far the publick Good was thought to be the Measure of the Obligation of these Oaths.*
- L. 1. c. 30. G. 1 Newburgenfis saith, *the Bannum publicum was the Foundation of this Agreement: And M. Westminister, that the King and Lords did all swear to it, and a solemn Charter was made of it, and kept in a most secure place.*

## HISTORY.

MW. sm. *Diligentia Theobaldi Archiepiscopi Cantuariensis, & Episcoporum regni Rex Anglorum Stephanus, & D. x Normannorum Henricus, apud Walsford talem concordiam interunt, &c.* By the Diligence of Theobald Archbishop of Canterbury, and the Bishops of the Kingdom, the following Agreement was made between King Stephen, and Henry Duke of Normandy, at *Walsford*. King Stephen not having an Heir, except only Duke Henry, did acknowledge, in an Assembly of the Bishops, and other chief Men of the Kingdom, that Duke Henry had the hereditary Right to the Kingdom of England; and the Duke kindly granted, that King Stephen should, during his Life, peaceably enjoy his Kingdom. The Agreement was so confirmed, that the King him self, and the Bishops then present, with the rest of the best Men of the Kingdom,

swore that Duke Henry, after the Death of the King, if he should outlive him, should enjoy the Kingdom, without all Contradiction: Of which Agreement there was a Charter made, which was kept in a most secure place.

*Ibid. n. 20.*

This is what the Historian hath, in both places, cited by the Author. The whole Charter is in *Brompton*, and begins thus: *Stephanus Rex Anglie, Archiepiscopus, Episcopi, Abbatibus, Comitibus, Justitiariis, Vicecomitibus, Baronibus, & omnibus fidelibus, sui salutem: Sciatis, quod Ego Rex Stephanus Henricum Ducem Normannie post me Successorem regni Anglie, & haec eadem meum jure hereditario constitui, & sic ei & heredibus sui regnum Anglie donavi & confirmavi: Dixi vero propter hunc honorem, & Donationem & Confirmationem, si a me factam, Homagio michi & Sacramento fecerint, scilicet quod fidelis michi erit. & vitam & honorem meum pro suo posse custodiet, per Conventiones inter nos praelocutas quae in hac Charta continentur. Stephen, King of England, &c. Know ye, that I have appointed Henry Duke of Normandy, Successor of the Kingdom of England after me, and my Heir by hereditary Right; and so have given and confirmed the Kingdom of England to him and his Heirs: For which Honour, Donation and Confirmation made by me to him, he gave me Security by Homage and Oath, that he would be faithful to me, and preserve my Life and Honour to the utmost of his power, according to the Agreements made by us, which are contained in this Charter. *Newburgenfis* speaking of this Treaty, says, *Piacuit inter eos* (that is, the King and Duke) *solemne & salubre colloquium celebrari, ubi amici mediantibus, & circa bonum publicum pia & prudenti provisione satagentibus, pax inter eos & caute formata, & solide firmata est.* They agreed to have a solemn and wholesome Treaty, where, by the Mediation of Friends, having a pious and prudent respect to the*

*Brompton, col. 1037. n. 60.*

*L. 1. c. 30. p. 104. In Paris, Ed. 1610.*

*common*

*Ibidem*,  
p. 105.

common Good, a Peace was warily made, and solidly confirmed. *Quibus Deo propitio salubriter actis, Rex Angliam, & Anglia pacem recepit: annis enim jamplurimis, fere nudo regis nomine insignis, tunc recipere visus est hujus rem nominis; & quasi tunc primo regnare cepit, quia tunc primo purgata Invasione, Tyrannica macula, legitimis principis justitiam induit.* Which things being done by God's Assistance, the King received England, and England received Peace; for having had the bare name of King for many Years, now he enjoyed the thing it self, and began then first to reign, because then the Blot of Tyrannical Invasion being first wiped out, he exercised the Justice of a lawful King.

The Author's further Words about this Accord, p. 22.

*And thus the Oaths of Allegiance were continued to one that had no Right, for his Life; and made to one who pretended to no Right, but after his Mother, who was set aside in this Agreement; for we never read that she was present at the Agreement, or resigned her Right to the Crown. So that here were three Oaths of Allegiance at once; that to Maud the Empress, that to King Stephen, and to Henry II. and yet the general Good of the Nation must give an equitable Sense of these Oaths, or there must be Perjury on all sides.*

The Answer to what the Author says, about this Agreement, and the Exclusion of Maud, &c.

By this Accord it was owned by King Stephen, Bishops and Barons, which were then the Parliament, or *Colloquium*, as the Author counteth, that the hereditary Right was in Duke Henry, and he granted that King Stephen, during his Life, should peaceably enjoy his Kingdom. And if the Right was in Henry, might he not recede from it if he plea-

sed? And the Agreement says, he did during Stephen's Life. This Retrocession made the Bishops and Barons Oaths to the Agreement lawful; and if he had not some testimony of a Cession, or Resignation, by and from his Mother, though not mentioned in the Agreement, this Convention could not, upon Stephen's Acknowledgment only, have own'd his hereditary Right upon Oath. And that by Cession, or some other way, she did quit and leave her Right to govern, to her Son, 'tis most probable, from what follows. Maud the Empress, upon the death of her Father, and the Invasion of Stephen, on the 30th of September, in the Year 1139, came into England with her Brother Robert, and managed the War against him in her own Person, her Son being but a Child, and her Husband engaged in the Defence of Normandy, Anjou, &c. against the King of France. 1133. Her three great Supports were, her half Brother Robert Earl of Gloucester, Ramulph Earl of Chester, and Miso Earl of Hereford; the last, to her very great Grief, died in the Year 1143. the second made his Peace with King Stephen, 1145. and the first, Robert Earl of Gloucester, died in the beginning of November, in the Year 1146. of an high Fever, after he had sent Henry, then being about thirteen Years of Age, over to his Father, into Normandy.

After the loss of these Friends and Supports, the Empress, wearied out with these Commotions and Wars in England, before Lens, in the Year 1147. passed over into Normandy, chusing rather to live there with her Husband in Peace, than undergo so many Troubles.

In the Year 1149. Henry came into England with an Army, in the Month of May; and returned into Normandy in the beginning of January next following, without Success.

In the Year 1150. Henry took possession of his Mother's Inheritance, (here. *discretum matris*.) the Dukedom of Normandy, and did Homage to Lewis King

*Malmib.*  
f. 104. an.  
10.

He was  
born, A.D.  
1133.

*Cham.*  
*Gerv.*

Col. 1359.

n. 10,  
Col. 1361.

n. 10.

Col. 1362.

n. 10. lin. 1.

*Ibidem*,  
Col. 1363.

lin. 1.

.)

*Ibidem*.

Col. 1366.

n. 30.

Col. 1367.

n. 30.

*Chr. Norm.*  
f. 984 B.C.  
A.D. 1150

of *France*, for it; his Father *Geoffrey* being present both when he took Possession, and did Homage; and they returned together from *Paris* rejoicing; and no doubt, if they two were so well pleased with what had been done, the Mother could not be dissatisfied, nor could it be done without her Consent.

*Ibidem*, D. On the 7th of September his Father A.D. 1150 *Geoffrey* died, and gave to *Henry* Duke of *Normandy*, his eldest Son, the Earldom of *Anjou*. *Henrico Duci Normanniae, primogenito suo concessit Comitatum Andegavorum*.

*Chr. Geru.* In the Year 1153. Duke *Henry*, all Col. 1372. things being quiet beyond Sea, came n. 30. 1 ne with some Forces into *England*, on the old Histo- 1st of January: His Coming was no sooner known, but the Earls and great Men began the Year at the same Month, the Year following, *Christmas*, the Agreement was made between King *Stephen* and Duke *Henry*. *Matth. Westminster* says it was made A. D. 1153.

*Chr. Norm.* From the time *Maud* the Empress f. 1101. D. left *England*, in the Year 1147 she is A.D. 1166 not so much as mentioned by any Historian, until the time of her death, which was on the 4th of the Ides, or 10th of September, 1166.

From these Particulars 'tis most probable, if not certain, that she was satisfied with, and consented to this Agreement, either at the time it was made, or by Cession from the Kingdom and Government, by relinquishing it, and leaving the whole Management to her Son, who was now Duke of *Normandy*, Earl of *Anjou*, and, in Right of his Wife *Alienor*, Duke of *Aquitain*; and being now above twenty Years of Age, fit for Action. When he came for *England*, she was in her declining Age, her Years being then about fifty; and fixing her Mind upon Works of Charity, she spent the rest of her Days in performing of them; for she built three Monasteries in *Normandy*; one of *Cisterians*, in the Country of *Caux*; another of *Canons*, near *Cheerburgh*; and a third of *Canons*,

in the Forest of *Gosfer*; and for the building of the Stone Bridge of *Rioven*, over the River *Seyn*, which had been begun by her, she gave a great Summ of Money. She was a Woman of a very brisk and high Spirit, as appears by her Actions in *England*; and after she left it, she lived nineteen Years, and twelve or thirteen after her Son was King: So as, if she had not relinquished her Right to *England*, as she had done about three Years before this Agreement, to *Normandy*, the Historians could not have been so silent concerning her.

So that from hence 'tis evident, that such as had taken the three Oaths were safe; for, upon *Maud's* Cession, or relinquishing her Right, the Obligation of the Oath made to her ceased. Then the Oath made to *Stephen*, seeing it was done by the Consent of *Henry*, who had the Right, became lawful. And thirdly, There can be no Scruple about the Legality of the Oath made to *Henry*, who, upon the Cession of his Mother, had the hereditary Right; and this is suggested and owned in the Agreement.

But the Author says, *The general Good of the Nation must give an equitable Sense of these Oaths, or there must be Perjury on all sides*. What could this general Good then be? It could not be the *Publick* of the Nation in a true sense, for the Bulk and Body of the People were *English Saxons*; (for though the *Normans* had taken away their Estates, and made them Slaves, as appears by *Dooms-day-Book*, and the black Book in the *Exchequer*, yet we read not that they massacred or murdered them.) And what general Good did they receive by, or what equitable Sense did, or could, what was general Good to them, give to the *Normans* Oaths? For all the Bishops and Noblemen that took these Oaths, were *Normans*: All the Bishops, Earls and Barons, that were Witnesses to the Instrument of Agreement, and sware to it, in number thirty seven, were *Normans*,  
except



except *Geoffrey of Monmouth*, a *Welshman*, or *Briton*, then Bishop of *St. Asaph*. *Malm-bury* wrote at this time, and says, when he wrote, there was no natural *Englismen* a Duke; that is, a great, or leading Man, a Bishop, or an Abbot; all sorts of Outlandish-men devoured the Riches and Bowels of *England*, nor was there any hopes this Misery would have an end. *Anglia facta est exterorum habitatio, & alienigenarum dominatio; nullus hodie Anglus, vel Dux, vel Pontifex, vel Abbas. Advena quique divitias & viscera corrodunt Angliae, nec ulla spes finienda miseria.* And in another place, speaking of the Battle of *Hastings*, he says. That was the fatal Day to the *Englsh*, the lamentable Destruction of his sweet Country, by its receiving new Lords and Masters. *Ille fuit dies fatalis Angliæ, funestum excidium dulci patriæ pro noverum Dominorum commutatione.*

Let the Author tell the World, how the general Good of a Nation that were miserable People, and Slaves, could give an equitable Sense of their Conquerors, and cruel domineering Masters Oaths. Let him shew how the general Good of any Nation can give an equitable Sense to the Oaths of such Men who were educated in Perjury, Rapine, Murther, and all sorts of Barbarities and Wickedness; whose Gain and Advantage was the Measure of all their Actions. In the Year 1104, or 1105, notwithstanding all the great Normans had swore Fealty to their true and lawful Duke *Robert*, yet when *Henry* came from *England* with good store of Money, they ran after him, and delivered to him Castles and

*Eadmer. f. 80. lin. 1. A* fortified Towns. Anno millesimo centesimo quinto, Rex Anglorum *Henricus D. 1104.* transiit mare, omnes autem pene majores *Hoved. f. 289 b. n. 30* Normannorum ad ejus adventum, spreto comite Domino suo, cui fidelitatem juraverant, in aurum & argentum regis, quod ipse de *Anglia* portaverat cucurrerunt, eique castra munia quo civitatis tradiderunt.

It was the way in *Normandy*, and from thence brought hither, when any Earl or great Man found himself grieved by another, injured, or highly affronted, they frequently got together all their Men at Arms, their other Tenants, and poor Dependants, and as much Assistance from their Friends and Confederates as they could, and burnt one another's Castles or Houses, destroyed their Lands and small Territories, and carried away the Inhabitants Prisoners. The *Norman* Hiltories abound with these Stories. *Ordericum Vitalis*, in the Lives of *Rufus*, *Henry I.* and this King *Stephen* especially, hath many Relations of such inhumane Ravages. And even at this very time, the *Norman* Commanders and Soldiers, and other Foreigners, as well of *Maud's*, as *Stephen's* Party, practised the same Barbarities in this Nation: The Country, or Husbandmen, such as ploughed and sowed, such as cultivated Towns and Villages, and the Inhabitants thereof, were given to the Soldiers as their Wages, and were sold with their Goods and Substance. *Mil-* *Contin. ad*  
*tibus in stipendium dantur, & venduntur.* *Flo. Wg. f. 672.*  
*vicorum & villarum cultores & habitatores, cum rebus suis universis, ac sub-*  
*stantiis.* In this King's Reign there were *Camden.*  
in *England* so many Tyrants, as there *Brit. f. 199*  
were Lords of Castles; and many *Fle-*  
*mings* and *Britains* flocked to him from beyond Sea, who were accustomed to live by plundering, that came into *Eng-*  
*land* in expectation of great Booty. *Sub* *Malmsh.*  
*Stephano plures ex Flandria & Britannia, fol. 105.*  
*raptio vivere assueti, spe magnarum pra-* *a. n. 20.*  
*darum Angliam involabant.* *England* was then made a Prey to all Invaders and Villains.

But the Author tells us, that the general Good of these inhumane People did give an equitable Sense to the Oaths then taken. If it were not as he says, there must be Perjury on all sides; for those who had first sworn to *Maud*, could not transfer their Allegiance on any other Account, (that is, of the general Good, &c.)

Sec.) either to Stephen, or Henry II. during her Life. What was thought of the Perjury of those Times, and especially of the Perjury of his three Bishops, (who were all Normans,) which the Author calls transferring of Allegiance, will be evident from the following Testimonies.

f. 221.  
a. n. 5.

Henry Archdeacon of Huntingdon, who lived and wrote at this time, and continued his History only unto the Year 1154, tells his Readers, That in Succession of the most flagitious time, in which the Rage of the Norman Fury appeared, whatsoever Henry had done tyrannically, or royally, in comparison of worse things, seemed to have been the best; for immediately upon his death, Stephen, (*Vir magna strenuitatis & audacie,*) a Man of great Confidence and Boldness, though he had sworn Fealty to the Daughter of King Henry, (*fratris tamen vigore & impudentia,*) furnished with Resolution and Impudence, (*regis diadema Deum tentans invasis*), tempting

f. 6. lin. 1.  
Ec.

God, invaded the Crown. But alas! William Archbishop of Canterbury, who first made Oath to the Daughter of Henry, crowned him; for which Act, God appointed the same Judgment for him, which he had done to the High Priest Jeremias, (*that is to say,*) that he should not live a

Gul. Neub.  
l. 1. c. 4. p.  
18, 19.

Year after. Cum ergo, ut predictum est, rex Henricus obisset idem Stephanus Sacramenta, quod fidei ejus de conservanda fideiitate preestiterat, perjurator regnum arripuit. Therefore, as hath been said, when King Henry died, Stephen brake his Oath of Fealty made to his Daughter, and seized the Kingdoms; the Bishops and great Men, that were bound by the same Oath, giving their Assistance: *Archiepiscopus quidem ejusdem (ut creditur) perjuris merito, ipso perjuricationis anno defecit:* And truly the Archbishop, as it was believed, for the same Crime of Perjury left the World

Ibid. p. 19.

within a Year. Stephanus ergo, ut contra jus humanum pariter & divinum; humanum scilicet, quia legitimus heres non erat; & divinum, id est violas a jurjuram-

di religionis, sublimaretur in regem; patuit est quacunque principes & proceres exigere voluerunt. Stephen therefore, because he was made King against both humane and divine Laws; humane, as not being the lawful Heir; divine, as having violated his Oath; promised and agreed to do whatsoever the Bishops and Great Men exacted of him.

As to Roger Bishop of Salisbury, if we may believe Malmesbury, he swore to Maud what he never intended to perform. The Testimony is from what the Historian heard him say: *Ego Rogerium Salterterensem Episcopum se a me audire dicentem, solum se a Sacramento, quod Imperatrix fecerat, &c.* I have often heard Roger Bishop of Salisbury say, he was free from the Oath he had made to the Empress, because he made it upon condition that the King should not marry his Daughter to a Stranger, out of the Kingdom. Nec vero hec ita dixerim, quod credam vera fuisse verba hominis, qui se unicuique tempore, pro volubilitate fortune accommodare nasser. Neither have I said these things, that I believe the Man's Words to be true, who knew how to comply with all Times, and accommodate himself to every Turn of Fortune. This Roger was an illiterate Priest, who got his Living by his saying Mass in the Suburbs of Caen, in Normandy. King Henry took him to be his Chaplain, because he was ready at his Office, and a cunning, crafty Man, and promoted him to the Bishoprick of Salisbury; and not only so, but committed to him the publick Administration of Secular Affairs: *Ut esset non tantum in Ecclesia magnus, sed etiam in regno a rege secundus:* So as he was not only great in the Church, but second, or next to the King, in the Kingdom. Sed rege defuncto, qui et tanta in seculo claritas auctor existerat, circa legitimis ejus heredibus infidus; ut Stephanum sacramento illo a me astrictum alliceret, non est veritus recurrere perjurium, verum etiam alius insigni peccandi prætruxit exemplum. But the King being

Malmesb.  
f. 99. b. n.  
10.

Gul. Neub.  
l. 1. c. 6.

Ibid.

being dead, who had made him so glorious in the World, he proved unfaithful to his lawful Heirs; that he might please *Stephen*, who was bound by the same Oath, did not only commit Perjury himself, but became a famous Example to others to do the like.

As to the Third, *Henry Bishop of Winchester*, the *Pope's Legat*, who was first made Abbot of *Glasterbury*, and then promoted to that See by King *Henry*. There needs no more to be said of him, than that he first swore to be true to *Maud*, and to maintain her Title after her Father's death; yet used all the Endeavour that he could, to set up his Brother *Stephen*, by making the Clergy (who then ruled all) for him, and then swore to be true to him. When *Stephen* was beaten, and made Prisoner by *Maud*, he left him, and swore again to *Maud*; and when he was at liberty, he left *Maud*, and made Oath of Fealty to him again, and continued *Pope's Legat* all the time.

The Conclusion of the Answer to this Instance shall be, the Judgment and Opinion of Mr. *Pryn* in this very Case. in his *Concordia Discors*, first printed 1659 and reprinted, 1683. The pernicious Violation of the Oath made to *Maud*, in crowning *Stephen* after King *Henry's* death, brought exemplary Judgments on the wilful Violators thereof, and a bloody, long, lasting, Civil War, within the Bowels of the Realm, between *Maud*, her Son *Henry*, and the Usurper *Stephen*, to the great Oppression, Devastation and Desolation of the *Publick* and *People*, as our *Historians* observe: All the Good they hoped for, by disinheriting *Maud*, and crowning *Stephen*, upon their own Terms, against his own, and their Oaths, becoming void and null by his Perfidiousness, through Divine Justice, which will never permit any good things to spring out of such enormous Evils as *Perjury* and *Treachery*; which produced sundry Judgments, and Civil Wars; never ceasing, till *Henry*, the right Heir, was restored to the Crown by a friendly Agreement;

the only probable speedy way now, to end our present Wars, oppressions, distractions, Military Government, and restore Peace and Prosperity in our Nations.

As to his Instance about Oaths taken during the Controversies between the Houses of *York* and *Lancaster*, a true Transcript of the Parliament-Rolls will be the best and plainest Answer; which here follows.

*Memorand.* that the xvij day of *October*, Ret. Parl. the ix day of this present Parliament, The 39 H. 6. the Counsell of the right high, and mighty Prince, *Richard Duc of York*, beought into the Parlement-chambre a Writing, n. 10. conteigning the cleyme and title of the right, that the seid *Duc* pretended unto the Coronet of *England*, and of *France*, and Lordship of *Ireland*, and the same Writing delivered to the right reverent father in God *George Bishop of Excestre*, *Chancellour of England*, desiring him that the same writing might be opered to the Lordes Spirituall and Temporall assembled in this present Parliament, And that the seid *Duc* myght have brief and expedient answers thereof; whereupon the seid *Chancellour* opened and shewed the seid desire to the Lordes Spirituall and Temporall, asking the Question of theym whether they wold the seid writing shuld be openly radde before them or noo. To the which Question it was answered and agreed by all the seid Lordes. Inasmuch as every persone high and lowe, sying to this high Court of Parlement must be herd, and his desire and petition understand, that the seid writing shuld be radde and herde, not to be answered without the King's Commaundement, for so much as the matter is so high, and of so grete myght and poise, which writinge there than was radde; The tenour whereof followeth in these words: It is not to be forgotten, n. 11. &c. as in *Numb.* 19. to loweth.

And afterward the xvij day of *October*, n. 12. the x day of this present Parliament, the seid *Chancellour* shewed and declare to the seid Lordes Spirituall and Temporall, b. iij

P.33.34.

Hollinshead,  
v.3. f.46.

being in the same Parlement, how that the Counsell of the seid Duc of York greatly desired to have answer of such writing, as upon the xvj day of *Octobre* last passed was put into this present Parlement, on the behalf of the seid Duc; and thereupon asked the seid Lordes what they thought was to be doon in that matier. To the which Question it was answered and thought by all the seid Lordes, *That the matier was so high, and of such might, that it was not to any of the King's Subjects to enter into communication thereof, without his high commaundement, agreement, and assent had thereto.* And furthermore forasmuch as the seid Duc desired and required brief and undelayed answer of the seid wryting, and in elchueing and avoyding of grete and manyfold inconveniences, that weren lykly to ensue, if hasty provision of good answer in that behalfe were not had; it was thought and agreed by all the Lordes, that they all shuld goe unto the King to declare and open the seid matier unto his Highness, and to understand what his good Grace wold to be done further therein. And the upon incontinent all the seid Lordes Spirituelx and Temporelx went unto the King's high presence, and therunto opened and declared the seid matier by the mouth of his seid Chawncellour of *England*; and the seid matier by the King's Highness herd and conceived. *It pleased him to pray and commaund all the seid Lordes, that they shuld seche for to fynde, in as much as in them was, all such things as myght be objected and laide ayenst the cleyme and title of the seid Duc.* And the seid Lordes besought the King, that he wold remember him, yf he myght fynd any resonable matier that myght be objected ayenst the seid cleym and title, in so moche as his seid Highness had seen and understooden many divers Wrytings and Cronicles; wherupon on the morne, the xvij day of *Octobre*, the xj day of this present Parlement, *the foresaid Lordes sent for the King's Justices into*

*the Parlement-chambre, to have their Avis and Counsell in this behalf;* and there delivered to them the wryting of the cleyme of the seid Duc, and in the King's name gave them straitely in commaundement, sadly to take avisament therin, And to seche and find all such objections, as myght be leyde ayenst the same in forteying of the King's right.

Whereunto *the same Justices, the Monday, the xx day of Octobre* then next ensuing, for their answer upon the seid wryting to them delivered seiden, that they were the King's Justices, and have to determine such matiers as come before them in the Law; between partie and partie they may not be of Counsell: And sith this matier was betweene the King and the seid Duc of York as two parties, and also it hath not be accustomed to calle the Justices to Counsell in such matiers; *and in especiall the matier was so high, and touched the King's high Estate and Regalie, which is above the law, and passed their lerning, wherefore they durst not enter into any communication thereof, for it perteyned to the Lordes of the King's blode, and thapparaige of this his lond, to have communication and medle in such matiers;* And therefore they humble byfought all the Lordes, to have them *utterly excused* of any avyce or counsell by them to be yeven in that matier.

And then the seid Lordes, considering the answer of the seid Judges, and intending to have the avice and good counsell of all the King's Counsellours, sent for all the King's Sergeants, and Attourney, and gave them straight commaundement in the King's name, *that they sadly and avisely should seche and seke all such things, as myght be best and strengest to be allegged for the King's avails, in objection and defering of the seid title and cleyme of the seid Duc.*

Whereunto the seid Sergeants and Attourney, the *Wensday* then next ensuing, answered and seiden, that the seid matier was put unto the King's Justices,



*Justices, and how the Monday last passed the same Justices seiden, and declared to the seid Lordes, that the seid matier was so high, and of so great wight, that it passed ther lerning; and also they durst not enter eny communication in that matier, to yeve any ayce or counsaill therein: And sith that the seid matier was so high, that it passed the lerning of the Justices, it must needs exceede ther lerning; and also they durst not enter eny communication in that matier, and prayed and besought all the Lordes to have them excused of yevyng eny ayce or counsaill therein.*

To whom it was answered, by the avvys of all the Lordes, by the seid Chaunceller, that they myght not so be excused, for they were the King's peticuler Counsaillers, and therefore they had ther fees and wages: And as to that the seid Sergeants and Attourney seiden, that they were the King's Counsaillers in the Law, in such things as were under his auctorite, or by Commission; *but this matier was above his auctorite, wherein they myght not medle, and humbly besought the seid Lordes to have them excused of yevyng eny counsaill in that matier; and it was answered them agayn, that the Lordes wuld not hold them excused, but let the King's Highness have knowleche what they said; and theruppon the seid Chaunceller remembred the Lordes Spirituells and Temperelex of the seyinges and excuses of the Justices, and seyinges and excuses of the Sergeants and Attourney, and also the grete commandemens of the King's Highness, that they had, to find all such objections, as myght be moost misgery to defende the King's right and title, and to defende the title and cleyne of the seid Duk of York; And also that the King myght understond, that the seid Lordes diden their true and faithfull devoure and acquittall in the seid matier, desired all the Lordes that every of them should say what he coude say in fortesyng the King's title, and in defendyng of the cleyne of the seid*

*Duc: And than it was agreed by all the Lordes, that every Lorde shuld have his fredome to sey what he wold sey, without eny reporting or magre to be had for his seying; And theruppon after the seying of all the Lordes every after other, It was concluded that thes matiers and articles, here undre written, shuld be alegged and objecte ayenst the seid cleyne and title of the seid Duc.*

*First, It is thought, that the Lordes of this Lond must needs call to their remembraunces, the grete orbes the which they have made to the King our Soueraigne Lorde, the which may be leyde to the seid Duc of York; and that the Lordes may not breke thes orbes.*

*Item, It is thought also, that it is to be called to remembraunce the grete and notable Acts of Parlements, made in divers Parlements of divers of the King's Progeniteurs, The which Acts be sufficient and resonable to be leyd agayne the title of the seid Duc of York. The which Acts becn of moche more auctorite than eny Cronicle, And also of auctorite to defende eny manner of title be made to eny persone.*

*Item, It is thought, that there is to be leyd agayn the seid title divers encasles made to the bewys males, as for the Corone of England; as it may appere by divers Cronicles and Parlements.*

*Item, It is thought, yf the seid Duc shuld make eny title or cleyne by the Lyne of Sir Leonell, that the same Duc shuld bere the Armes of the same Leonell, and not the Armes of Edmund Langley, late Duc of York.*

*Item, It is to be allegged agen the title of the seid Duc, that the time that King Herry the fourth toke upon him the Corone of England, he said he entred and toke upon him the Corone as right inheriter to King Herry the thirde, and not as a Conquerour.*

To the which Articles the seid Duc of York gave his answers in writinge as folowen.

*Responsiones prefati Richard Plantagenet*, called comonly *Ducis ad Duc of York, &c.* to certain raisons and *Objectiones* colours alleged, as it is said, ayenst the *testuli sui* mater of his right and title, &c.

*First*, Where it is said, that it is thought, that the Lordes muitt nedes calle to their remembrance the *grete Orbes which they have made to the King*, which may be leid to the seid *Duc*, and that they may not breke thoo othes.

n. 14.

The seid *Richard* aunswereth and saith, that every man, under the peyne of everlasting dampnation, is bounde to obey to the lawe and commaundements of God, by the which lawe and commaundements trouthe and justice owe to be preferred and observed, and untrouthe and injustice laid apart and repressed, and soe it is that of this bond, and ductye of obedience to Godd's lawe, *noo man may discharge himself by his owne dede or act, promise or ooth*, for elles of the contrary wold ensue *innumerable inconveniences*; wherefore sith it is soe, that the mater of the title and cleyme of the seid *Richard Plantagenet* is openly true, and lawfull, and grounded upon evident trouthe and justice; It followet, that man shuld have rather consideration to trouthe, right and justice in this matter accordingly with the will of the law of God, then to any promise or ooth made by him to the contrarie, considered namely that by the lawe and determination of holy Church an ooth made by oow persone unto the prejudice or hurt of an other, contrarie to trouthe, justice and charity, in the which standeth the plenitude and perfection of Godd's lawe, is void and of noon effect, neither in eny wise obligatory; And that the vertue and nature of an ooth is to confirm trouthe, and in no wyse to impugn it; And over that by the ooth of feaute, homage, or ligeaunce, no man is bounden to any inconvenient or unlawfull thing; And how beit that this answer is sufficient to all maner objections that may be made ayenst his cleyme and

entent in this partie by reason or occasion of any ooth, yet natheless the seid *Richard*, for as much as the mater of othes is a mater spirituell, for more declaration of his conscience, honesty and trouthe in this partie, offreth himself redy to aunswer before any Juge Spirituell, competent in place, and tyme convenient to all maner of men, that any thing wold purpose ayenst him in that behalf.

And to shew clerely, *that lawfully withouten offence of God and conscience he may cleyme and pursue his right, and desire Justice, in such forme as he doth, and that all other persones, and namely the Peers and Lordes of this Reame may, and by the law of God and man ought to helpe, and assist him in trouthe and justice, notwithstanding any ooth of feaute, or oser by him or them here before made.*

Over this, where it is thought also, that it is to be called to remembrance the *grete and notable Actes of Parlements*, made in dyvers Parlements of dyvers of the King's progenitours, the which actes been sufficient to be leyed ayenst the title of the seid *Duc*, and of more auctorite then eny Cronicle, And alsoe of auctorite to defete any maner title made to eny persone,

n. 15.

And also where 'tis said, that it is to be leyde ayenst the seide title dyvers entailles made to the heirs males, as for the *Corone of England*, as it may appear by divers Cronicles and Parlements,

The seid *Richard Plantagenet* aunswereth and saith, that in trouthe ther been noo such actes and tailles made by eny Parlement herebefore, as it is surmised, *but only in the vijth year of King Henry the fourth a certeyne act and ordonnance was made in a Parlement, by him called, wherein he made the Reames of England and Fraunce, amongs others, to be unto him, and to the heirs of his body comyng, and to his iiij sonnes, and the heirs of their bodies comyng, in maner and forme as is appereth in the same act*; And if he myght have obtayned and rejoyced the seid *Corones, &c. by title of inheritance, descent,*

discent, or succession, he neither neded, nor wold have desired, or made them to be graunted to him in such wise, as they be by the seid acte, *The which saith no place, neither is of any force or effect ayenst him, that is right inheritor of the seid Corone, as it accordeth with Godd's laws, and all natural lawes; how it be that all other actes and ordinaunces made in the seid Parlement, and sithen been good and sufficient ayenst all other persones.*

n. 16.

Item, Where it is thought, that if the seid Duc shuld make any title or cleyme by the line of Sir Leonell, he shuld bere the Armes of the same Sir Leonell, and not the Armes of Edmund Langley late Duc of York.

The seid Duc aunswereth, and saith, that trouth is, he myght lawfully have borne the Armes of the seid Sir Leonell here bifore, and also the same Armes that King Edward the third bare, that is to say the Armes of the Reaumes of Eng-  
land and of Fraunce, but he abteyned of beryng of the seid Armes, like as he absteigned for the tyme of purposing, and pursuing of his right and title, &c. for causes not unknowne to all this Reaume; for though right for a tyme rest, and bee put to silence, yet it roteth not, ner shall not perishe.

n. 17.

Item, Where it is alleged ayenst the title of the seid Duc, that the seid Henry of Derby, at such tyme as he toke uppon him the Corone of Englonde, said, that he entred and toke the same Corone uppon him as right enheritour to King Henry the third, and not as a Conquerour.

The seid Duc therto saith, that such saying of the seid King Henry the fourth may in noo wise be true, and that the contrarie therof, which is trouth, shall be largely ynough shewed, approved, and justified by sufficient auctorite, and matier of record: And over that, that his seid saying, was oonly to shadow, and colour fraudulently his seid unrighteous, and violent usurpation, And by that moyen to abuse deceyvably the people stand-  
ding about him.

Item, The Saturday, the xvij day of n. 18.  
this present Parlement, it was shewed unto the Lords Spirituelx and Temporelx, being in this present Parlement, by the mouth of the seid Chamberler, that the seid Duc of York called besily, to have hasty and speedy aunswere of such matiers, as touched his title above seid; And how that for as moche as it is thought by all the Lordes, that the title of the seid Duc cannot be defeted; and in eschewing of the grete inconvenients that may ensue, a meane was found to save the King's honour and estate, and to appease the seid Duc if he wold, which is this; That the King shall keep the Corones, and his estate, and dignity roiall, duryng his lyfe, and the seid Duc, and his heirs, to succede him in the same; Exhorting and stering all the seid Lordes, that if eny of them cowde finde any other or better meane, that it might be shewed; whereuppon after sad and ripe communication in this matier had, it was concluded and agreed by all the seid Lordes, that sith it was soo, that the title of the seid Duc of York cannot be defeted, and in eschewing the grete inconvenients that myght ensue, to take the meane above-re-  
berfed, The othes that the seid Lordes had made unto the King's Highness at Coven-  
tre, and other places saved, and their consciences therein clered; and over that it was agreed by the seid Lordes, that the seid meane shuld be opened and declared to the King's Highness: And forthwith they went towards the King, where he was in his Chambre, within his Palice of Westminster; and in their goyng out of the Parlement-chambre, the seid Cham-  
celler asked of the seid Lordes, that sith it was soo, that the seid meane shuld be opened by his mouth to the King's good Grace, yf they wold abide by him how-  
soever that the King toke the matier, and all they aunswered and said, Yee.

All these premisses thus shewed and opened to the King's Highness, he, inspired with the grace of the Holy Gooft, and in eschuyng of effusion of Christen

blode, by goode and sad deliueration, and auyce had with all his Lordes Spirituelx and Temporelx, condescended to acord to be made betweene him, and the seid *Duc*, and to be authorized by thau-  
ctoryte of this present Parlement; The tenour of which accord hereafter ensueth in maner and forme following.

*Concordia facta inter Regem & eorum Reaume;* Blessed be *Jesu*, in whos hand and bountie restith, and is the peas and uni-  
*et am.* tee betwixt Princes, and the wele of eve-  
ry Reaume; thurgh whos direction agreed it is, appointed; and accorded as

n. 19,

followeth, Betwixt the moost mighty Prynce, King *Herry* the sext, King of *England*, and of *Fraunce*, and Lorde of *Ireland*, on that oon partie; and the right high, and mighty Prince, *Richard Plantagenet*, *Duc* of *York*, on that other partie, upon certaine matters of variaunce moeved betwixt them, and in especiall upon the cleyme and title unto the Coronas of *England*, and of *Fraunce*, and roiall power, estate, and dignite apperteigning to the same, and Lordship of *Ireland*, opened, shewed, and declared by the seid *Duc* afore all the Lordes Spirituelx and Temporelx, being in this present Parlement, *The seid agrements, appointments, and accord to be authorized by the same Parlements.*

This is the same verbatim with the Writing put in'o the Parliam-  
ment, n.  
11.

First, Where the seid *Richard Duc* of *York* hath declared, and opened as above, his seid title and cleyme in manere as followeth; That the right noble, and worthy Prince, *Herry*, King of *England*, the third, had issue, and leessully gate *Edward* his first begotten Sonne, born at *Westminster*, the xv Kalends of *July*, in the *Vigill* of *St. Marc* and *Marcellian*, the yere of our Lorde *MCCXXXIX.* and *Edmund* his secund Sonne, which was borne on *St. Marcell* day, the yere of our Lorde *MCCXLV.* The which *Edward*, after the deth of the seid King *Herry* his fader, entitled and called King *Edward* the first, had issue *Edward* his first begotten Son, entitled and called, after the deceffe of the seid first *Edward* his fader, King *Edward* the secund;

which had issue, and leessully gate the right noble, and honourable Prynce, *Edward* the third, the true and undoubted King of *England*, and of *Fraunce*, and Lorde of *Ireland*; which *Edward* the third, true and undoubted King of *England*, and of *Fraunce*, and Lorde of *Ireland*, had issue and leessully gate *Edward* his first begotten sonne, Prince of *Wales*, *William Hatfeld* secund begotten, *Leonell* third begotten *Duc* of *Clarence*, *John* of *Gauins* fourth begotten *Duc* of *Lancaster*, *Edmund Langley* fifth gotten *Duc* of *York*, *Thomas Windsor* sixth gotten *Duc* of *Gloice*, and *William Windsor* the seventh gotten; The seid *Edward* Prynce of *Wales*, which dyed in the lyfe of the seid *Edward* King, had issue and leessully gate *Richard*, the which succeeded the same *Edward* King, his Grauntfi e, in roiall Dignite, entitled and called King *Richard* the secund, and dyed without issue. *William Hatfeld*, the secund gotten sonne of the seid *Edward* King, dyed without issue. *Leonell*, the third gotten sonne of the same *Edward* King, *Duc* of *Clarence*, had issue, and leessully gate *Philippe* his only daughter and heir, which by the Sacrament of Matrimonie copied unto *Edmund Mortymer* Erle of *Marche*, had issue, and leessully bore *Roger Mortymer* Erle of *Marche*, his sonne and heire; which *Roger* Erle of *Marche* had issue, and leessully gate *Edmund* Erle of *Marche*, *Roger Mortymer*, *Anne*, and *Alanore*; which *Edmund*, *Roger*, and *Alanore* dyed without issue, and the seid *Anne* under the Sacrament of Matrimonie copied unto *Richard* Erle of *Cambridge*, the sonne of the seid *Edmund Langley*, the first gotten sonne of the seid King *Edward*, as it is afore specified, had issue, and leessully bare *Richard Plantagenet*, commonly called *Duc* of *York*; The seid *John* of *Gauins*, the fourth gotten sonne of the seid King *Edward*, and the younger Brother of the seid *Leonell*, had issue, and leessully gate *Henry* Erle of *Derby*, which incontinent, after the time that the seid King *Richard* reigned



refighed the *Corones* of the feid *Reaumes*, and the feid Lordship of *Ireland*, *unrightwisly* entred upon the same, then *beginning* on *hus* Edmund Mortymer Erle of *Marche*, sonne to Roger Mortymer Erle of *Marche*, sonne and heir of the feid *Philippe*, daughter and heir of the feid *Sir Leonell*, the third sonne of the feid King Edward the third; to the which Edmund the right and title of the feid *Corones* and Lordship by lawe and custome belonged.

To the which Richard Duc of *York*, as sonne to Anne, daughter to Roger Mortymer Erle of *Marche*, sonne and heir to the feid *Philippe*, daughter and heir to the feid *Leonell*, the third gotten sonne of the feid King Edward the third, the right title, dignite roiall, and estate of the *Corones* of the *Reaumes* of *England*, and of *Fraunce*, and of the Lordship and lond of *Ireland*, of right, lawe, and custome apperteyneib, and belongeib, aforeenysse of the feid John of Gaunt, the fourth gotten sonne of the feid King Edward.

n. 20.

The feid title natheles notwithstanding, and without prejudice of the same, The feid Richard Duc of *York*, tenderly desyryng the wele, rest, and prosperite of this lond, and to set apart all that, that myght be trouble to the same; and considering the possession of the feid King Henry the sixth, and that he hath for his time be named, taken, and reputed King of *England*, and of *Fraunce*, and Lorde of *Ireland*, is content, agreeib, and consenteib, that he be had, reputed, and taken, King of *England*, and of *Fraunce*, with the roiall estate, dignite, and pre-eminence belonging therto, and Lord of *Ireland*, duryng his lyfe naturall; and for that time the feid Duc, without hurt or prejudice of his feid right and title, shall take, worship, and honour him for his Sovereine Lorde.

n. 22.

Item, It is accorded, appointed, and agreed, that the feid Richard Duc of *York* rejoyse, be entitled, called, and reputed, from hence forth verrey and

rightfull heire to the *Corones*, roiall estate, dignite, and Lordship abovefeid; and after the decesse of the feid King Henry, or when he woll lye from him the feid *Corones*, estate, dignite, and Lordship, the feid Duc, and his heires, shall immediately succede to the feid *Corones*, roiall estate, dignite, and Lordship.

n. 25.

Item, For the more establishing the feid accord; It is appointed, and consented, that the Lorde Spirituelx and Temporelx, being in this present Parliament, shall make ootheres to accepte, take, worship, and repete the feid Richard Duc of *York*, and his feid heires, as above is reherced; and kepe, observe, and strengthen; in as much as apperteyneth unto them, all the things abovefeid, and resist to their power all them that wull presume the contrary, according to their estates and degrees.

n. 27.

The King understanding certainly the feid title of the feid Richard Duc of *York* just, lawfull, true, and sufficient; by thavis and assent of the Lorde Spirituelx and Temporelx, and Commens in this present Parliament assembled, and by auctorite of the same Parliament, declareth, approveth; and ratifieth; confermeth, and accepteth the feid title just, good, lawfull; and true, and therunto yeveth his assent, and agreement, of his free will and libertie. And over that, by the feid avis and auctorite, declareth, entitleth, calleth, stablisheth, affermeth, and reputeth the feid Richard Duc of *York* verrey, true, and rightfull heire to the *Corones*, roiall estate and dignite of the *Reaumes* of *England*, and of *Fraunce*, and of the Lordship of *Ireland* aforefeid; and that according to the worship and reverence that therto belongeth, he be taken, accepted, and reputed, in worship and reverence, by all the States of the feid *Reaume* of *England*, and of all his Subgetta therof, saving and ordeigning by the same auctorite, the King to have the feid *Corones*, *Reaumes*, roiall estate, dignite, and pre-eminence of the same.

same, and the said Lordship of Ireland, during his life naturall. And furthermore, by the same avis and auctorite, wolle, consenteth, and agreeth, that after his decesse, or when it shall please his Highness to ley from him the said Coronet, estate, dignite, and Lordship, or thereof cesseth; The said Richard Duke of York, and his heires, shall ymmediately succede him in the said Coronet, roiall estate, dignite, and Lordship, and them then have and joy, any Act of Parlement, Statute, Ordynance, or other thing, to the contrarie made, or interruption, or discontinuance of possession notwithstanding. And moreover, by the said avis and auctorite, stablisheth, graunteth, confermeth, approveth, ratifieth, and accepteth the said accord, and all things therein conteyned; And thereunto freely and absolutely assenteth, and agreeth.

From this Record it is evident,

1. Richard Duke of York exhibited his bare Claim and Title to the Lords only.

2. Richard Duke of York did not petition the Lords. n. 11.

3. His Council only delivered in a Writing, containing his Descent, and Title by Birthright, and Hereditary Succession, and nothing else.

4. The Matter was so high, the Lords could not answer it, nor enter into Communication thereof, without the King's Command, Agreement, and Assent.

5. The King consented, and prayed and commanded the Lords to search and find out what might be opposed to the Duke's Claim and Title.

6. They sent for the Judges, to advise what might be said against the Duke, to fortifie the King's Right.

7. The Judges excused themselves, for that the matter was so high, and touched the King's high Estate, and Regality, which was above the Law, and passed their Learning; wherefore they dare not enter into Communication thereof.

8. The Lords, upon this Answer of the Judges, sent for the King's Serjeants

and Attorney, and gave them the same Command, who made the same Excuse the Judges had done; but the Lords would not take it: Whereupon the Articles and Reasons against the Duke's Claim and Title were exhibited, n. 13.

9. That in the Articles and Reasons against the Duke's Claim and Title, there is not the least word of *Phileppe's* being illegitimate, or that her Father was divorced from her Mother; nor is there the least mention that the House of Lancaster claimed by Prescription of sixty years Possession, (which comes from *Docteman*;) and the Authour is to find out both the things in the Parliament Rolls, or be guilty of downright Falshood; for he reports them both as pleaded against the Duke's Title. As to the first, there needed no other Argument, if it had been insisted on, and could have been made good: And as to the second, neither was it insisted on, or mentioned, as was said before; and if it had, *Nulum tempus occurrit Regi* would have been a sure Rule in this Case: For it is absurd to think that Prescription, at least so short a Prescription as this, could justify a wrong, and make a Title in this Case; for there is another Rule of Law, *Non confirmatur Actus temporis, quod de jure non subsistit*; no length of time makes that lawfull which was not so from the beginning. If there be a right Heir of the Crown, that claims or else would claim, but that he wants either notice of his Right and Title, or Power to make it good, or forbears to claim for other sufficient Reasons, here Prescription signifies nothing.

10. It was allowed, at least not contradicted, that all Persons, and namely the Peers and Lords, might, and by the Laws of God and Man ought to help and assist him in Truth and Justice. n. 14.

11. It was the Judgment of all the Lords, that the Title of the Duke, which was onely Succession by Birthright, and Proximity of Blood, could not be defeated,

The Authour.  
p. 22, 23;

Vide n. 16.

12. That

12. That *Richard Duke of York* was by King *Henry*, and the Lords, acknowledged as very and rightfull Heir to the Crown, and that he was so to be called.

13. That the mean found out to save the King's Honour, and appease the Duke, if he would, was not, or could be imposed or forced upon him, but he was at liberty to accept or refuse it, and was no ways bound, but by his own consent. n. 18.

14. The Oath that *Richard Duke of York* took, was in pursuance of the Agreement; and any man may lawfully take an Oath to make good a Bargain, where no man receives Injury but himself; and so with his consent that is injured, any other Person concerned in the Agreement, may swear to the observation of it.

Page 24. Lastly. The *Weal, Rest, and Prosperity* of the *Land* (which the Authour calls the *Publick Good*) followed this Agreement; and the Reason was, that the Crown was restored to the right Heir; whereupon all Murmuring, Hatred; Strife, and Contention amongst the People, and Evil-will and Contrivances against one another ceased.

These are all the Instances the Authour useth; yet two are wanting, the Successions of *Edward III.* and *Hen. IV.* but seeing he may have perused an excellent Treatise, bearing the Title of the *Grand Question*, he may haply be convinced by what the learned Authour hath said, that they were both *Usurpers*; the first during his Father's life, the second from the very time he took upon him *Kingship*.

The Authour's Words, p. 29, 30.

There are three sorts of Persons may be said to have Possession of the Crown, an *Usurper*, a *King de jure*, and a *King de facto*; and because the Distinction between these doth not seem to be well understood, I shall briefly explain it.

1. An *Usurper* is one that comes in by force, and continues by force.

2. A *King de facto* is one, who comes in by consent of the Nation, but not by virtue of an immediate hereditary right.

3. A *King de jure* is one, who comes in by Lineal Descent as next Heir; and whose Right is owned, and recognised by the Estates of the Realm.

The Authour may make what verbal, frivolous Distinction he pleases between a *King de facto* and an *Usurper*, yet *de facto* they are the very same. Let him shew an Example in this Nation, if he can, of a *King de facto* set up without an Army or Force; or of an *Usurper* that came in by Force, who did not make the Nation own him; and though he took upon him the Name and Title by force, and the assistance of a Party, yet afterwards made the States and People consent to it. Was not *Edward II.* made Prisoner by an Army, and afterwards deposed; and *Edward III.* in his Father's lifetime, set up by such as were under the power of that Army? And *Henry IV.* set up by such as acted, and were under the power of that Force? Our Laws make no difference between an *Usurper*, and a *King de facto* according to the Author's description.

The Author's Words, pag. 32.

A *King de facto*, according to our Law; (as I said,) is one in quiet possession of the Crown, by Consent of Parliament, without hereditary Right; such as *Henry IV.* *V.* *VI.* *VII.* were all thought to be by those who made this Distinction. For, as far as I can find, the Distinction of a *King de facto*, and *de jure*, was then started, when the House of York so much insisted on their hereditary Right, and so many of our Kings had governed the Kingdom by Consent without it; therefore the Lawyers, to find a sufficient Salvo for the Kings of the House of Lancaster, framed this Distinction of *Kings de facto*, and *de jure*.

Records,

## Records, Law, and History.

Rot. Parl. In the First of Edward IV. the Commons exhibit a Petition in Parliament, wherein they set forth his Title by *Birth-right*, and *Proximity of Blood*; and say, *Richard II. was lawfully, rightly, and justly* seated and possessed of the *Corone of England*, *Roiall Power*, *Estate*, *Dignite*, *Pre-eminence*, *Governance*, and *Lordship of Ireland*, and the same joyed in rest and quiet, without interruption or molestation, unto the time that *Henry* late *Earl of Derby*, sonne of *John of Gaunt*, the fourth gotten sonne of King *Edward III.* and younger brother of *Edward III.* remouously, *ayenst rightwysdomes, and justice*, by force and armes, *ayenst his feith and ligeance*, *reued-werre* at *Fluene* in *Wales*, *ayenst the seid King Richard*; him toke, and imprisoned in the Towre of *London* of grete violence. And the same King *Richard* so being in prison, and lyving, *usurped* and *intruded* upon the *Roiall Power*, *Estate*, *Dignity*, *Pre-eminence*, *possessions*, and *Lordships* aforeseid; taking upon him *usurposly* the *Corone* and *name* of King, and Lord of the same Reaume and Lordship; and not therewith satisfied or content, but more grevous thyng attempting wyklydly, of an unnatural, unmanly, and cruel Tyranny, the same King *Richard*, King enoynted, coroned, and consecrate, and his *Lsege* and most high Lord in the Earth, *ayenst God's Law*, *Manne's Ligeance*, and *Oorb of Fidelite*, with uttermost punction attormenting, murdered with most vyle, heynous, and lamentable death.

Ibid. n. 9.

Ibid. n. 10.

And that the same *Henry* *unrightwisely*, *ayenst Lawe*, *Conscience*, and *Custom* of the seid Reaume of *England*, *usurped* upon the seid *Corone* and *Lordship*. And that he, and also *Henry*, late called King *Henry V.* his sonne, and the seid *Henry*, late called King *Henry VI.* the sonne of the seid *Henry*, late called King *Henry V.* occupied the seid Reaume of *England*,

and *Lordship of Ireland*, and exercised the governance thereof by *unrightwisely* *intrusum*, and *usurpation*, and in *moon* *otherwise*.

'Tis true, the Distinction of a King *de facto*, and *de jure*, was first heard of in this very Parliament, which declared the hereditary Right of the House of *Tork*, in the First of *Edward IV. cap. 1.* in print; which agrees with the Record in the Parliament-Roll, n. 41. and not before; but not started then by the Lawyers, to find a *sufficient Salvo* for the Kings of the House of *Lancaster*; but an Expression intended by Parliament (before they used it) to denote and make known an unlawful, pretended, or pretended King, that had not obtained the Crown by just Title; or to signifie an Usurper, by way of *Amisbefus*, or Contradistinction to a King *de jure*, or in Right. For this very Parliament, that had declared *Henry IV. V. VI.* Usurpers, calls them all, in this Act, or Statute, Kings *de facto*; or in Deed, and not in Right; and their Reigns, pretended Reigns; and very often assigns them to be but pretended Kings, such as did not reign lawfully, nor possess the Crown by just Title. And that this was the intention of the Parliament in the use of this Expression, the Statute it self will inform the Author, or any indifferent Reader that will peruse it.

The Lawyers did not comment or descant upon these Words, or declare what power a King *de facto* had, before *Easter-Term*, in the Ninth of *Edward IV.* and then they acknowledge *Henry VI.* King *de facto* in the Instance, to have been an Usurper, and that he was not King, *forque per usurpacion*, but by Usurpation. This Ninth of *Edward IV.* was a troublesome Year, and Make-king *Warwick*, in all probability, with many others of the Nobility, were at this very time contriving against him, and to re-inthronize King *Henry*; for in *July* following he was in open Rebellion against King *Edward*, and about the end of that Month,



Month, or beginning of *August*, made him Prisoner; who soon made his Escape, left the Nation, and went into *Holland*, &c. and on the sixth of *October*, in that Year, *Henry VI.* was restored. The Earl of *Warwick* was popular, almost beyond Imagination; and probably the Lawyers, during the Contrivance, when they saw the People move that way, might start such Notions about the Power of a King *de facto*, as might encourage the Undertaking of *Warwick* and his Friends, for *Henry VI.* against *Edw. IV.* 'Tis observable, that the Judges did not argue, or give any Opinion in this Case, but only the Serjeants and Apprentices of the Law, as appears in the Case itself. *Sir Edward Coke* hath once done the *Year-Book*, 9. Ed. IV. Term. Pasch. concerning whole Opinion, the Author may read *Mr. Pryn*, in his *Plead for the House of Lords*. This is a brief Account of a King *de facto*, and the Origin of the Expression; by which it is most manifest, that by the Parliament-Roll, the Statute and Case of the Ninth of *Edward IV.* he is no other than a pretended, unlawful King, and an Usurper, though set up as the three *Henries* were; and therefore the pretended Distinction is idle, as may also further appear by the following Statute; which, because not common, is here recited at large.

*Statutes at large.* 17. Item, Whereas in the most dolorous Absence of our Sovereign Lord the King Ed. IV. c. 7. out of this his Realm, being in the parties of *Holland*, and before his victorious Regress into the same Realm, in a pretended Parliament, unlawfully, and by usurped Power, summoned by the Rebel and Enemy to our Sovereign Lord the King, *Henry VI.* late in Deed, and now of Right, King of England, holden in the Palace of *Westminster*, the 26th Day of *November*, in the Ninth Year of our Sovereign Lord the King that now is, under the coloured Title of the said *Henry*, the 49. Forty-ninth Year of the Inception of his pretended Reign, and the First Year of the Redemption of his usurped Power, and

State, divers and many Matters were treated, committed, wrought to the destruction and disorder of our Sovereign Lord the King, and his Blood Royal, by the Labors and Exhortation of Persons for serving God, nor willing to be under the Rule of any earthly Prince, but inclin'd of sensual Appetite to have the whole Government and Rule of this Realm under their Power and Domination: Which Communications, Treaties and Workings do remain in Writing, and some exemplified; whereby many Inconveniences may ensue to our said Sovereign Lord the King, and his Blood Royal, (which God defend,) and all Noblemen at this time attending about the King, and all his other Liege People and Subjects, unless due Remedy be provided in this behalf. Our said Sovereign Lord the King, by the Assent of the Lords Spiritual and Temporal, and at the Request of the Commons in the said Parliament assembled, and by the Authority of the same, For the Surety of his noble Person, his noble Issue, and the inalienable Succession of the same; and for the Surety of all the Lords, Noblemen, and other his Servants and Subjects, hath ordained and established, that the said pretended Parliament, with all the Continuances and Circumstances depending upon the same, be void, and of none effect; and that all Acts, Statutes, Ordinances, Treaties, Communications, Conventions and Workings in the same pretended Parliament treated, committed, accorded, wrought, had, or by Authority of the same Parliament enacted and ordained; and all Exemplifications made upon the same, or any part of them; and every of them, shall be reversed, cancelled, void, undone, revoeked, repealed, and of no force, nor effect.

*Henry VI.* was a King *de facto*, according to the Author's Description, as well before, as since this Parliament, in the Ninth of *Edward IV.* and Forty-ninth of *Henry VI.* and is said to be, in this Statute; yet in all these Times, he

is declared an *Usurper*, at this time a *Rebel*, and his Reign a *pretensed* Reign; and this Parliament is also declared a *Statute as pretended Parliament*. Richard III. was acknowledged to be a King, by a Parliament of his own calling, and was, according to the Author's description, a King *de facto*; yet in the First of Henry VII. he is declared an *Usurper* of the Realm, and not so much as allowed the name of King, or *pretensed* King, in that Statute.

After the King *de facto*, and *Usurper*, Enquiry is to be made what Right and Title a King *de jure* may pretend to the Crown, according to the Constitution, Law, and Statutes of the Kingdom; and it appears by the following plain-Proofs, that it is only by *Descent*, and not otherwise. This is an hereditary, successive Monarchy; and immediately upon the Death or Cession of the Predecessor, the Crown is vested in the lawful Successor by Inheritance and Proximity of Blood. Which appears,

1. By the Record before cited, of the Compromise and Agreement, between Richard Duke of York and Henry VI. in the Thirtieth Year of his Reign, wherein he makes his Claim only by hereditary Descent. He exhibited only a bare Title by Descent, and Proximity of Blood, which could not be denied; and upon such shewing of his Right, the Lords concluded, it could not be defeated.

Rot. Parl. t. d. notwithstanding what King Henry's 1. Edw. IV. Council could say against it.

n. 10. 2. By the Record of the First of Edward IV. The Commons being in this part of the present Parliament, having sufficient and Petition evident knowledge of the said *usurper*, and Declaration of *Usurpation*, and *Invasion*, by the relation of Lord Henry late Earl of Derby, upon the the Common Corone of England; knowing also commons be certainly, *without doubt or ambiguity*, fore mentioned the Right and Title of our said Sovereign, and Lord then onto true, and that by God's passed into *Law of Manne's Law, and Law of Nature*, an Act. *be none other is, and owe to be them* n. 15. *true, righteous, and natural king and*

*Sovereign Lord*; and that he was *in Right from the day of the said noble and famous Prince his Father, very first King of the said Reame of England*. And yet his Father was never possessed of the Crowne.

3. And that the Taking of Possession, and Entree into the Exercise of the Royall Estate, Dignity, Reign, and Governauce of the said Reame of England, and Lordship of Wales, of our said Sovereign Liege Lord King Edward IV. the said 4th Day of March; That Day and the Amocion of the said Henry, late he took called King Henry VI. from the Exercise Possession, Occupation, Inuasion, of the Reigne, and Governauce of the said Crown Reame and Lordship doon by our said and our Sovereign, and Liege Lord King Edward IV. the said 4th Day of March, *Lord. n. 11.* was and is rightwile, lawfull, and according to the Lawes and Customes of the said Reame, and soe owe to be taken, holden, reputed, and accepted. And over that, that our said Sovereign, and Liege Lord King Edward IV. the said 4th Day of March, was lawfully, seized and possessed of the said Corone of England in his said Right and Title; and from thenceforth have to hym and his Heires, Kings of England, all such Magners, Castells, Lordships, Honoures, Londs, Tenements, Rentes, Services, Fees, Fee-farm Rentes, Knights Fees, Avouments, Gytes of Offices, to yere at his pleasure, Fairs, Markets, Usages, Vynes and Amerciamentes, Libertees, Franchises, Prerogatives, Eschetes, Customes, Reversions, Remyders, and all other Hereditamentes with her Appoyntances, whatsoever they be, in England, Wales, and Ireland, and in the Towns, and the Marches thereof, as the said King Richard had in the Best of his Days, when the Apostle, (about three Weeks before he was deposed) the Twenty third Yere of his Reign, in the Right and Title of the Corone of England, and Lordship of Wales, and Ireland, after his Death, have descended to the said Edmund

**Edward Marston** *Earl of March*,  
 Sonne of the said **Roger Marston** *Earl*  
*of March*, unto the said **Henry of Blois**  
 of the same **King Richard**, after his  
 death, of the said **Marston** had not  
 been committed, or after the said **Ed-**  
**mund**, to his next *Heirs of Blois*, by the  
 Lawe and Custome of the said *Reame of*  
*England*.

4. The general Opinion of the *N. Men*  
 in these Times, that the Right and Title  
 to the Crown was by Inheritance only,  
 and Proximity of Blood, canied **Henry IV.**

*Ret. Parl.* to claim it, as *defensible by right Line* of  
 2. *Hen. IV.* the *Blood*, cominge from the said Lord  
 n. 53. **Henry Thierde**.

*Ret. Parl.* And for the same Reason, **Richard III.**  
 1. *Re. III.* was by the three Estates, that is to say,  
 in *Essex* the  *Lords Spiritual and Temporal*, and  
*Abrog-* Commons, in Parliament assembled, de-  
*ment fol.* clared to be *undoubted Heir of Richard*  
 712 713. Duke of *York*, Father to **Edward IV.** very  
 714. *Inheritor of the Crown of England*,  
 and *Dignity Royal*, and, as in *Right*, King  
 of *England* by way of *Inheritance*. All  
 this was insinuated by himself, in his  
 Answer to *Buckingham's* Speech, when  
 he took upon him *Kingship*. Likewise  
**Henry VII.** upon the same Account, pre-  
 fers his Title by Conquest and Succes-  
 sion before that by Act of Parliament,

*T. Jell's*  
*Contin.*  
*fol. 231.*

In *Cotton's*  
*Library*,  
*Cleopatra*,  
*E. 3.*

*Bacon's*  
*History* of only  
*Henry VII.* King by the Army in *Bosworth Field*,  
 J. 1. & 3. and had there King *Richard's* ornamen-  
 tal Crown put on by *Sir William Stanley*,  
 and the notorious and indubitable  
 next Title of Succession; but also by the  
 Election of all the *Proles*, and *Great*  
*Men* of the who's Commonalty of the  
*Kingdom of England*, and by a known

and descent Statute and Ordinance of  
 the three Estates of the said *Kingdom*  
*of England*, in their Meeting called a  
 Parliament. But that he thought him-  
 self most safe in the Pope's Consecra-  
 tion is clear, for that in the Thirtieth  
 Year of his Reigne he procured the Bull  
 to be renewed, and the Act of Parlia-  
 ment confirmed, by Pope *Alexander VI.*  
 under pain of Excommunication and  
 Curse to such as should, upon any pre-  
 tence whatsoever, disturb the Peace of  
 the Nation, and create Troubles against  
 the Title of *Henry VII.*

**Henry VIII.** In all his extravagant  
 Acts concerning his Queens, and the  
 Succession, founded them in pretended  
 legal Proximity of Blood, according to  
 the due course of Inheritance; the pre-  
 tended want of which was the Ground  
 and Suggestion still for passing those  
 Acts. See 25 *Hen. VIII. cap. 22.* 28.  
*Hen. VIII. cap. 7.* And 35. *Hen. VIII.*  
*cap. 1.*

5. Where it hath pleased Almighty *Statute 7.*  
 God, the 6th Day of July last past, to *Mar. Sess.*  
 call out of this transitory Life, unto his 2. *cap. 4.*  
 Mercy, our late Sovereign Lord King  
**Edward VI.** by, and immediately after  
 who's decease, the Imperial Crown of this  
 Realm, with all Dignities, Dominion,  
 Honours, Pre-eminences, Prerogatives,  
 Styles, Authorities, and Jurisdictions, so  
 the same united, annexed, or belonging,  
 did we only defend, remaine and come  
 unto our most dread Sovereign Lady the  
 Queen's Majesty, but also the same was  
 taken immediately, and lawfully in-  
 vested, deemed and adjudged in Her Highness's  
 most Royal Person, by the due Course of  
 Inheritance, and by the Laws and Sta-  
 tutes of this Realm.

6. The Act of Reversion in the First *Sess.*  
 of King James, doth not take notice *cap. 2.*  
 of **Henry VII.** his Title, but of his Daugh-  
 ter *Margaret's*, as descended from *Ed-*  
*ward's* her mother, Daughter and Heir  
 to **Edward IV.** and declare that he was  
 lineally, rightfully and lawfully descended  
 as the Body of the most excellent Lady  
*Margaret.*

*Cotton,*  
*Lib. no. 50.*  
*pra.*

Margaret, eldest Daughter of the most renowned King Henry VII. and the high and noble Princess Queen Elizabeth his Wife; eldest Daughter of King Edward IV. In consideration whereof; the Parliament doth acknowledge King James their only rightful Liege Lord and Sovereign; and further May, as being bound thereunto both by the Laws of God and Man, they do recognize and acknowledge, that immediately upon the Dissolution and Decease of Elizabeth late Queen of England, the Imperial Crown of the Realm of England; and all the Kingdoms, Dominions and Rights belonging to the same, did by herent Birth-right, and lawful and indubitable Succession, descend and come to His most Excellent Majesty, as being lawfully, justly and lawfully next and sole Heir of the Blood Royal of this Realm; as it is aforesaid.

In the First of the same King, there was a Conspiracy formed against him; by Persons of divers Sorts; of whom some and Clerk and two Priests; pleaded in 1 Jac. kept could not be Treason, because he was at Winchester. All the Judges refused. That Chester, King James being sought, he to the Court by Deputies; was immediately upon the death of Queen Elizabeth, actually possessed of the Crown, and lawful King of England, before any Proclamation; or Coronation of him, which were but Ceremonies. For their Treason they were condemned, and executed at Winchester, the 23th of November.

These are impregnable Proofs from the Constitution, Laws and Statutes of this Nation, what the Right and Title to the Crown is, and to whom the Succession is due.

## NOTES

James VI. King of Scotland, was the first of the name who reigned in England. He was the only son of James V. King of Scotland, and Mary, Queen of Scots, who was married to James V. in 1548. James VI. was born in 1566, and became King of Scotland in 1567. He was also King of Ireland from 1554 to 1556, and King of France from 1559 to 1561. He was the first of the Stuart dynasty in England, and his reign was marked by the union of the crowns of Scotland and England in 1603. He was succeeded by his son, James VII. and II., who was also King of Scotland and Ireland.